Two Books:

The FIRST being Styled

A REPLY

TO

Sir **Thomas Manwaring's**

Book Entituled,

AN ANSWER

TO

Sir *PETER LEICESTERS'S*

ADDENDA.

The OTHER Styled,

Sir *Thomas Manwaring's*

Law-Cases Mistaken.

By the said

Sir *PETER LEICESTER*

Anno Domini, 1674.

Printed in the Year,

M, DC, LXX, IV.

THE EPISTLE TO THE READER.

I Am, in the first place, to let thee Know, how it comes about that I now write again; contrary to what I formerly both intended and declared in the close of my Answer to Sir Thomas Manwarings *defence of* Amicia, [*formerly Printed* 1673, page. 79] *where I said, that* [*I take my leave for ever of this trivial Controversy:*] *The Reason is, because I am now forced unto it by unhandsome Provocations: So that, although my Resolution then was, to have writ no more about it (especially if he had let me alone;) yet*

now, contrary to my former intention, I am neceſſitated hereunto in my own Defence; for the removal of thoſe unjuſt obloquies which are ſince caſt upon me: And which others (who know not the Truth) may think me guilty of, without due vindication both of my Self, and the Truth: nay, I am already taxed by him for not being juſt to my Word herein, in his Anſwer to my Addenda, pag. 32; *though he very well knows, that I did omit many things in the ſame* Addenda *purpoſely in regard thereof: hoping that ſince I forbore to write againſt his* Reply, *onely anſwering ſome new* Accuſations *laid upon me, that he would alſo have ceaſed from writing any more: yet he hath publiſhed another book ſince: and having therein taxed me already of not being juſt to my Word, I cannot now incurr a greater cenſure herein, ſhould I vindicate both the truth and my ſelf to the utmoſt, by writing in my own defence as long as I ſhall judge it neceſſary: and I believe, none can juſtly blame me for it.*

Wherefore I have now expoſed two ſmall books to thy view for clearing of the Truth;

Truth; *the one intitled* — *Sir* Thomas Manwaring's Law-caſes *miſtaken*: *The other* — A Reply *to Sir* Thomas Manwaring's *Anſwer to Sir* Peter Leiceſter's Addenda: *In which* Anſwer *I find much diſingenuity, in palliating of Plain* ~~Truths~~ errors, *but rarely confeſſing any*; *reſolving not to be convinced, but, like the Angry man in the Comedy,* non perſuadebis etiamſi perſuaſeris.

I doubt not but he will ſay as much of my Reply, but, Reader, thou muſt be Judg: And I ſubmit it to thee freely. If ever I deny a plain Truth or Reaſon, when it clearly appears, then blame me for it: Nothing can be true and falſe both at once, ſimul & ſemel: *wherefore ſtrength of Reaſon, by* Argument *and good* Authority, *muſt guide thee to incline to the one ſide or to the other: becauſe two contrary Opinions in the ſame thing, cannot both be true: Then, Read thoroughly, and judge impartially. So, ingenuous Reader,* Farewell.

Mobberly.
April 14, 1674.

TO

Sir *Thomas Manwaringe*, Baronet.

SIR,

SInce I ſee, You reſolve not to be convinced of your Opinion, notwithſtanding the plaineſt truth of *Reaſon* and *Hiſtory* Produced; but ſeek ſtill to evade the ſame with ſeeming and very unſatisfactory Anſwers; and many impertinent Law-Caſes, which either reach not thoſe former Ages, or are elſe urged altogether impertinently by you, and are not to the point in hand: I have thought good, to ſhew your *Miſtakes* in your late *Anſwer* to my *Addenda*; and by my *Reply*, to

pluck off the vizard which diſguiſeth the Truth.

The matter indeed would ſooner and better be determined by Arguing face to face before learned and judicious men, which would ſooner bring us to the Point, and thereby avoid infinite impertinencies, which (I ſee) by writing do daily ariſe: And it ſeemeth neceſſary for me to print this *Reply*, leſt you ſhould ſay (as in the like caſe you have formerly ſaid *pag.* 55. of your *Reply* to my *Anſwer*) that theſe Reaſons alſo of yours are *unanſwerable*: whereas thoſe other, by you mentioned, were purpoſely omitted by me, as of no great moment to very wiſe men: and was indeed done, that we might not be endleſs in writing.

Wherefore, I have here collected all the material things in your *Anſwer* to my *Addenda*, where, by way of Reply, I ſhall ſhew all your *Errours* and defects in that *Anſwer*, as followeth: And that very briefly and plainly.

Page 2. *Of your* Anſwer *to my* Addenda.

Here you ſay, you *cannot but ſmile that I ſtill ſay, the Gift to Geva was ſuch a Precedent*, conſidering how in your *Defence* of *Amicia* pag. 43, 44. *&c.* and alſo in your *Reply* to my Anſwer *pag.* 23, and *pag.* 45, 46. *&c.* you have made it to appear, that it is very uncertain, that *Geva* was a Baſtard, but moſt certain that the gift to *Geva*, was not a Gift in *Frank-marriage*.

My Reply.

You may perhaps ſmile, as puft up in your vain conceit, in denying a plain truth, who is proved to be a Baſtard out of an Hiſtorian contemporary: and therefore to what is ſaid of *Geva* in your defence of *Amicia*, I ſhall refer the Reader to my Anſwer of that Book, *pag.* 33. and ſo onwards to *pag.* 47.

And whereas you ſay, It is moſt certain that the gift to *Geva* was not a Gift

Gift in *Frank-marriage*, I wonder at it, if you can engliſh *in libero conjugio*; unleſs you think all Readers ſhould be infatuated.

For, ſay you (in your *Reply* to my *Anſwer pag.* 55.), Thoſe arguments of yours which mentioned *pag.* 44. of my *Anſwer*, and pretended to be anſwered by me *pag.* 45, 46, 47. remain yet in their greateſt ſtrength, and are not at all anſwered by me: nay, the one of them is ſo far from being Anſwered by me, that it is not underſtood by me, unleſs I only pretend not to underſtand it, becauſe I cannot give an Anſwer to it: And you rather think, that to be the truth of the Caſe, becauſe I have not recited your Argument as you did expreſſe it: (what is this deep Argument?) namely, that my Lord *Cook* ſaith in his *Comment upon Littleton*, *fol.* 21. that theſe words [*in liberum maritagium*] are ſuch words of Art, and ſo neceſſarily required (in thoſe kind of Gifts) as they cannot be underſtood by words equipollent: And there he gives the reaſon, that theſe words *in liberum marita-*

maritagium did create an eſtate of inheritance againſt the general Rule of Law: and therefore the Law required that it ſhould be legally purſued: and, to explain this, he alſo ſaid that, If a man give lands to another with his daughter *in connubio, ſoluto ab omni Servitio, &c*: yet, there paſſeth in this caſe but an Eſtate for life: yet for all this I would not believe my Lord *Cook*, if he ſhould have ſaid the words [*in libero Conjugio*] do make but an Eſtate for life.

My Reply

To all which I now anſwer: That the Lord *Cook* ſpeaks there, of the Law of theſe later ages; and as the Law was taken in his time: for, if we underſtand it of the ancient Law in *Glanvil*'s time, it is not true; and was not the Law at that time: neither doth the Lord *Cook* ſay, that was the Law in *Glanvil*'s time; or, if he ſhould have ſaid it, none ought to believe it: for we ſee the gift to *Geva, in libero Conjugio*, did convey an eſtate of In-

Inheritance by thoſe very words: and her heirs enjoyed the ſame. And it is ridiculous to ſay the contrary, namely, that theſe words *in libero Conjugio* created but an Eſtate for life in thoſe ancient ages, ſince we ſee *de facto*, that thoſe words did convey an eſtate of inheritance about the later end of *Henry* the *firſt*, or raign of King *Stephen*.

2. Again I ſay, that in thoſe ancient ages the words *in libero Conjugio*, or *in maritagio* only, ſo as the lands were acquitted from all ſervice towards the chief Lord, were then as good as *in Libero maritagio*: See the words of *Glanvil*, *lib.* 7. *ca.* 18. *Maritagium autem, aliud nominatur Liberum, aliud Servitio obnoxium: Liberum dicitur maritagium, quando aliquis liber homo, aliquam partem terræ ſuæ dat cum aliquâ muliere, alicui in maritagium; ita quòd ab omni Servitio terra illa ſit quieta, & à ſe & hæredibus ſuis, verſus capitalem Dominum, acquietanda: & in hâc quidem libertate ità ſtabit terra illa uſque ad tertium hæredem, nec interim tenebuntur hæredes inde facere*,

facere aliquod homagium: Poſt tertium verò hæredem, ad debitum Servitium terra ipſa reverteiur, & Homagium inde capietur.

So that, Lands given *in Maritagium, Habendum ſibi & hæredibus ſuis, libere & quiete ab omni Servitio verſus Capitalem Dominum, de me & hæredibus meis*; this was a good Grant in Free-Marriage, by the very words of *Glanvil* in thoſe ancient ages, and was as good as, *in liberum maritagium:* and, *in Conjugio, ſoluto ab omni Servitio, &c.* was then as good as, *in libero Conjugio.* But if the Grant were in theſe Words——*in libero Maritagio*: or, *in libero Conjugio*, then was it as good by the Law, as if the words aforeſaid were expreſſed, and were included therein: nay, *in liberum Dotarium* was as good as either; which I have ſeen uſed in an old *Deed*, made in the raign of *King John*, wherein *Saher de Quency*, Earl of *Wincheſter*, granted to *Robert Quency*, his Son and heir, *ad dandum in liberum Dotarium Hawiſiæ Sorori, Comitis Ceſtriæ, uxori ejuſdem Roberti*, the Man-

Mannours of *Buckby*, *Grantes*, & *Bradham*, and *Hardwick*. In one of the *Couchir*-books in the Dutchy-Office at *Grays*-Inne, *London*. Tom. 2. *Honor, ſive Soca, de Bolingbroke.* num. 26. pag. 508. *in liberum Dotarium*, was the ſame as, *in liberum Maritagium*: for, in Domeſday-book, *Dos* is called *maritagium*: Cook upon *Littleton fol.* 31. *a.* and *Glanvil lib.* 7. *cap.* 1. *Dos, quod vulgariter dicitur maritagium.* So that, the words *in liberum maritagium* were not in thoſe ancient Ages ſo ſtrictly required, as in later ages whereof the Lord *Cook* ſpeaketh; nor, were thoſe words ſo ſtrictly then reſtrained, as no other words were equipollent; which the nicety of Lawyers in modern ages tyed up with more ſtrictneſs to it ſelf, as a Term of Art, in thoſe Gifts of *Frank-marriage*: which kind of Gifts are now grown obſolete altogether, and out of uſe: and ſerve now only for *Moot*-caſes.

Nor, do we find any ſuch thing in all *Glanvil*, that, ſuch gifts were then tyed up to ſuch women only, as were of the Donour's blood; but rather

ther the contrary: For, *Glanvil lib. 7. ca.* 1. ſaith that, it might be given to any man with a daughter, or with any other woman whomſoever; without any reſtraint at all: whoſe words yet, you have endeavoured to reſtrain, by the words of ſome Lawyers of later ages: which you cannnot juſtly do: for, what the Lawyers of late ages do take for law in their times, is a great *Non ſequitur* to the Age of *Glanvil.*

Nor is it abſolutely true, which the Lord *Cook* doth there ſay, that at this day the words *in liberum maritagium* have no other words equipollent: For then, a deed in Engliſh granting lands in Free-marriage, or a Deed in French *de terres en Frank-marriage*, would be void *Grants*: For, neither of theſe have in ſtrict terms the words [*in liberum maritagium*;] and So, could not create an Eſtate of inheritance in themſelves; contrary to what *Littleton* ſaith, *Sect.* 17. Wherefore certainly he underſtood it of a *Grant* in Latin: and ſo, *Free-marriage*, or *Frank-marriage*, ſeem to be in their kind Terms of Art, Equipollent herein.

But

But let us now ſee, how you would prove the Gift to *Geva* in *Free-marriage*, to be no Gift in *Free-marriage*.

The Reaſons you give in your *Reply* to my *Anſwer pag.* 57. And in your Defence of *Amicia pag.* 49. are theſe.

1. That the words *in libero Conjugio*, do there make but an eſtate for life, becauſe the Lord *Cook* ſaith, that the words *in liberum maritagium* are ſuch words of Art as cannot be expreſt by words equipollent.

2. That the Deed to *Geva*, did intend no more than an eſtate for life, it running all along in the ſingular number, *Et teneat benè & in pace, &c.* and there being no mention of her Heirs.

3. The Deed to *Geva* is made to her alone, and not to a Husband with her: whereas the Lord *Cook* ſaith, that, one thing incident to *Frank-marriage* is, that it be given, in conſideration of a marriage, either to a man with a Woman, or (as ſome have held) to a Woman with a man.

4. That the Donees [by the ancient Law]

Law] were to hold freely of the donour to the fourth Degree: and here are no Donees, but one Donee.

To the *Firſt*: You are horribly out, to ſay that, the words *in libero Conjugio* in the grant to *Geva*, did make but an eſtate for life; when we ſee *de facto* that they conveyed unto her an eſtate of inheritance: For the Town of *Drayt* was enjoyed by her heirs, the *Baſſets*, by this very Deed in thoſe very words: and it is apparent, that from the *Baſſets*, ſometime Lords thereof, it gained the name of *Drayton-Baſſet* for diſtinction, as even at this day it is yet called. And it is abſur'd for any man to ſay, that, this Gift to *Geva* is not a Gift in Free-marriage: for, thus it runnes (only I render it in Engliſh)——*Randle*, Earl of *Cheſter*, to *William* the Conſtable, and *Robert* the Steward, and to all his Barons, *&c.* Greeting: Know ye, that I have given and granted unto *Geva Ridel*, daughter of Earl *Hugh*, *Drayton*, with the appurtenances in Free-marriage, even as Earl *Hugh* gave and granted the ſame to her in Free-marriage, *&c.*

See the Deeds at large in my Book of Antiquities *pag.* 112, 113. Now to ſay, This is not a Gift in Free-marriage, is to ſay, that, A Gift in Free-marriage is not a Gift in Free-marriage: which is very abſur'd: But I ſuppoſe you mean, that this is not a *Good* Gift in Free-marriage, by Law, becauſe the words are not *in libero maritagio,* but, *in libero Conjugio*; for that the Lord *Cook* ſaith, that no words can be equipollent to theſe —— *in libero maritagio:* Whereunto I anſwer, as I did before averr, That the Lord *Cook's* word's are to be underſtood of the Law as it ſtood in his time and in late ages: which are not true, if we underſtand them of the Law in the more ancient ages; as is very evident by this Grant to *Geva*, and alſo by *Glanvil* and *Bracton*: and you ſee, the Lands did paſſe accordingly.

To the Second: The words [Frank-marriage] create an eſtate of inheritance in themſelves by the Common-Law; although it be not expreſſly ſaid in the Deed, To hold, to them and their heirs; *Littleton* Sect. 17. And there-

therefore the words, *in libero Conjugio*, did not need the word [Heirs] to be expreſſed in the Grant: wherefore you do not ſay right, that the deed to *Geva* did intend no more than an eſtate for life: and eſpecially, ſince you ſee, that Gift to *Geva* did convey an eſtate of inheritance thereby which did deſcend to her heirs; chooſe whether you think it a good Deed, or a bad Deed.

To the Third: It hinders nothing, though the Deed be made to *Geva* alone, and that it runs in the Singular number: But, ſay you, How can there be a gift in Free-marriage, where is no marriage at all? and, how can there be a marriage, if the man or Woman be alone? It is true, that there can be no marriage, if the man or woman was never married, nor ever ſhould marry: Yet there may be a Gift in *Frank-marriage* to one alone, as you ſee this was made to *Geva* alone, who had been, or was then again married: and ſhe had alſo a former Grant in Free-marriage, which is mentioned alſo in this: And that probably did mention both her and her Husband:

But I cannot positively affirm it, because I never saw it: but certainly there was some reason for this later grant by Earl *Randle* unto her, for the conveying of *Drayton* to her and her heirs, or otherwise it would never have been made or desired: and *Bracton* saith, *lib. 2. cap. 7. par. 3.* Land may be given *alicui mulieri ad se maritandam:* and if it be granted, *sibi & haeredibus liberam ab omni Servitio, &c.* then was it a good grant *in libero maritagio.* How will you conster here *alicui mulieri ad se maritandam*, if Lands may not in this nature be granted in marriage to one Person alone? The Law was not so curiously woven in those ancient Ages, as in the Lord *Cook's* time. But to deny, the deed to *Geva* to be no Gift in *Frank-marriage*, were to raise a dispute upon the Deed---Whether this Gift in *Frank marriage*, be a gift in *Frank marriage*, or no Gift in *Frank-marriage*? like the Gentleman who would needs dispute about a Crosse, & the Question must be — Whether that Crosse, was a Crosse, or no Crosse?

To the Fourth. The heirs of the Donee

Donee (being included in the Grant) are all Donees in Law: and ſhall be freed from all homage to the chief Lord, to the fourth degree, by the ancient Law, as both *Glanvil* and *Bracton* do tell us.

All this will not acquit *Geva* from being a Baſtard, nor take off that Precedent (ſhowing that lands did paſſe with Baſtards in Free-marriage in thoſe more ancient Ages) to the advantaging of the Caſe of *Amicia*, one jot: nor can theſe Bits of Law, ever find out a former wife to *Hugh Cyveliok*, which is the main point: and till this be done, *Amicia* will ſtand convict of Baſtardy for want of Evidence.

The true reaſon why I did not in my *Addenda* meddle with the Anſwering of this point before, and other things, was, becauſe of my former Reſolution declared in the end of my *Anſwer*, where I took leave of this Trivial controverſy for ever: which I did to avoid all further writing between us: but it would not be. For, by a *Reply* you faſtened new Accuſations and falſities upon me, and thereby forced

me to a Vindication of my ſelf; & thoſe impertinent too, to the Point of the Controverſy between us: And yet for all that, in regard of what I had before declared and intended, I paſſed by ſeveral errors and defects in your *Reply*, as I told you in the cloſe of my *Addenda:* hoping hereby alſo, that it might have put an end to your writing any more, in regard I had firſt ceaſed in that point; and being now only upon my own defenſive part, yet I had in ſome things been defective in my own Defence; (which yet I judged not ſo very material to the point) but this would not do neither: And after this, you have ſince publiſhed another book and forced me to this *Reply*, contrary to my former reſolution and intention, whereunto I am neceſſitated for the removal of thoſe unjuſt obloquies which you have again caſt upon me, and which others (who know not the Truth) may think me guilty of, without the clearing both of my Self and the Truth: Nay in your anſwer to my *Addenda*, *pag.* 32. you have already taxed me for not

not being juſt to my Word; So that, I cannot now incur a greater cenſure from you herein, though I alter my former reſolution and intention, and write in my own defence ſo long as I ſhall henceforth judg it neceſſary: and I think no man can juſtly blame me for it: And now I proceed in my *Reply* to your *Anſwer* to my *Addenda.*

Pag. 3. *Of your* Anſwer *to my* Addenda.

Here you ſay, that I erre in ſaying that, the wife of *Lewellin* was *Joan*, daughter of King *John*; by *Agatha de Ferrars*, daughter of the Second *William de Ferrars*, Earl of *Darby*: where *pag.* 4, 5. you further prove by comparing the Age of *Bertred*, that *Agatha* could not be daughter to the Second *William de Ferrars* by *Agnes* his Wife.

My Reply

This is not my errour, if it be an errour: for I only vouch what *Vincent*

cent ſaith: therefore all rational men will impute the errour to him, and not to me: and I believe, *Vincent* is miſtaken therein: which he might eaſily be, in taking her to be the daughter of the Second *William de Ferrars*. *Speed*, in his Hiſtory *pag.* 518, calleth her, daughter of *Robert de Ferrars*: However it is ſaid by our Hiſtorians, that *Agatha de Ferrars* was Paramour to King *John*, and mother to *Joan*, wife of *Lewellin*, Prince of *Wales*: whether ſhe was daughter of *Robert de Ferrars*, or the firſt *William de Ferrars*, Son of *Robert*; it matters not.

All I here look after, is, that *Joan* (baſe daughter of King *John*) was wife of *Lewellin*, Prince of Wales, and mother of *Helene*, wife of *John* the Scot, Earl of Cheſter: againſt which, nothing can be rationally ſaid, and, whether *Joane* was married *Anno Domini* 1204, or 1205. as *Cambden* [in *Shropſhire*] voucheth it out of an old Chronicle of Cheſhire; it matters not: The Church of *England* computes the year of our Lord to begin the 25. day of *March*, and ſo you reckon the date of

of the Writ to fall in *anno* 1204: yet our Ancient Hiſtorians begin the year uſually on the firſt of *January*, commonly called *New years-day*; and ſo the date of the Writ will fall in *anno*. 1205; as it is in *Cambden*: And it is not a Pin matter, which way ſoever we reckon, nor, whether in the one year, or in the other.

And here I will joyn iſſue with you to the point in hand: —— Whether *Lewellin* married *Joan*, baſe daughter of King *John*, or no? I affirm it.

Pag. 6, 7. Of your Anſwer to my Addenda.

You tell me here, that, I am guilty of a third error in pretending that King *John* gave the Lordſhip of *Elleſmere*, *in libero maritagio* with his daughter *Joan*: For the Authors, by me produced, as well as the Record of *6. Johannis* by you produced (being, the precept to make livery of *Elleſmere*, directed to the Sheriffe of *Shropſhire*; dated at *Worceſter* 23. *Martij*.

Martij. ex Rot. clauſo de anno Sexto Regis Johannis; Membrana 7) do only ſay, that it was given *in maritagio:* And then you ſay, To argue that *Elleſmere* was given *in maritagio*; *ergo*, it was given *in libero maritagio*; is very irrational: and you diſtinguiſh between them, and ſay, that, Lands may be given *in maritagio* to one that is not of the blood; but, Lands cannot be given in Free-marriage, but with one that is of the whole blood; neither can they be ſo given unleſs the word *liberum* be uſed as well as the word *maritagium*: and ſo, you refer us to *pag.* 39, 40. and *pag.* 56, 57. of your *reply* to my Anſwer.

My Reply.

Here, you would diſtinguiſh between *maritagium* and *liberum maritagium:* and ſay, *Maritagium* is two-fold: but do not give the members of your Diſtinction aright: for, a good Logician would tell you that the members of a good Diviſion muſt be

Diſtinction

op-

oppoſite: and not, as you here diſtinguiſh, *Maritagium eſt duplex; vel maritagium, vel liberum maritagium:* the members are here coincident: for, *liberum maritagium eſt maritagium: Glanvil's* diſtinction is good; *Maritagium eſt, vel liberum, vel Servitio obnoxium*: So that, *maritagium* the *Genus*, comprehends the members, and both oppoſite one to another, as, either Free-marriage, or not Free-marriage: In his time, there was no ſuch thing, as Free-marriage to be tied up to one of the whole blood, nor yet to thoſe words *in libero maritagio*: this is a Law of a later ſtamp; which I have before clearly proved. *Maritagio* was often in thoſe ages, underſtood for *libero maritagio*, both by Hiſtorians, and in old Deeds, eſpecially where, by the words of the Deed, it was freed from all Service, and therefore your diſtinction here is frivolous.

Pag.

Pag. 7. *Of your* Anſwer *to my* Addenda.

There you ſay further, that, If the Gift of *Elleſmere* had been given *in libero maritagio* with *Joan* baſe daughter of King *John*, unto *Lewellin*; yet, this would have ſtood me in no ſtead: (why ſo?) becauſe *Cook on Littleton fol.* 21. *b.* ſaith, that, if the Donee in a gift of *Frank-marriage*, that is the cauſe of the Gift, be not of the blood of the Donour; yet, there may paſſe an Eſtate for life if livery be made, as in this caſe it was: and then you inſinuate this caſe of *Elleſmere* to be but an eſtate for life, becauſe you read in *Powel's* notes on the Welſh Hiſtory *pag.* 306. and *Mathew Paris pag:* 625, 626, that, though *Eleſmere* was enjoyed by *Lewellin*, yet it was not long enjoyed by his Son *David*.

My Reply.

I wonder you ſhould ſo often bring in ſuch impertinent Peeces of Law: For, I have told you over and over again, that *Joan* (who was the cauſe of the gift) was of the blood of the

the Donor, for ſhe was his Baſtard-daughter: and I have ~~before~~ elſe where proved out of *Bracton*, that, in thoſe elder Ages, Baſtards were reputed of the blood: and now you would inſinuate, this to be but an eſtate for life by a *Circumquaque* of the livery made: And ſee, how fallaciouſly you deal with the Reader, and ſay, it was but an eſtate for life, becauſe it was not long enjoyed by *David*: Doth not *Mat. Paris* in the place alledged ſet down the deed and Agreement between King *Henry*, and *David*, dated 25. *Hen.* 3? wherein *David* granted *Elleſmere* to King *Henry* for ever? So that it reverted not to the King as an eſtate for life, as you go about to deceive the Reader; but, by vertue of that ſpecial Deed and Agreement mentioned by *Mat. Paris*: for, without that Grant it could not have reverted to the King, becauſe it was an eſtate of inheritance, and not (as you unhandſomly ſuggeſt) an eſtate for life only: for *John* was dead before this Deed was made, at leaſt four years; and

* to King Henry and his heirs for ever.

King

King *Henry* her Brother would have ſeized it as his own right upon her death, if it had been an eſtate for life onely: and *Lewellin* was alſo dead a year before: and what needed this Covenant and Grant from *David* of *Elleſmere*, if it were the right of King *Henry*, before that Agreement made? So that it was certainly an eſtate of inheritance in *Joan*: and whereby you may alſo ſee that the word *maritagio* (mentioned in the Record of 6°. *Johannis*, which you keep ſuch a ſtir about) doth there clearly include an eſtate of inheritance by that word in the Writ of livery touching the lands of *Elleſmere* aforeſaid, and the words of *libero maritagio* could have done no more. So that you are groſly miſtaken herein, and your Law-caſe impertinently urged.

Pag. 8, 9. *Of your* Anſwer *to my* Addenda.

Here you ſay, that, the Deed of *Budiford* and *Suttehele* doth not ſay that

that they were given by King *Johh*, *cum Johannâ filiâ ſuâ*: you ſay alſo, that my conceit that *Lewellin* could not have a former wife [to that *Joan*] unleſs ſhe were another daughter of King *John*, is a very wild one.

My Reply

As to the *Firſt*: It is nothing but a meer cavil: for the words *cum Johannâ filiâ ſuâ* are by common intendment ſo to be underſtood, and are as ſtrongly there implyed, as if they had been expreſſed in the Deed; becauſe *Lewellin* never married any other daughter of King *John*, ſave only the ſaid *Joan*, whereby he might have thoſe Lands in *Frank-marriage* given by King *John* with any other, either daughter, or Kinſwoman.

As to the *Second*, It is a mere miſtake, which you in your wild Phanſy ſuppoſe of me: for I never conceited or ſaid any ſuch a thing: I ſaid that *Lewellin* never married any other danghter of King *John*, ſave only the ſaid *Joan* his Baſtard-

daughter

daughter: ſo that *Lewellin* could not have thoſe Lands in Free-marriage with any other daughter of King *John*: I wiſh, I might but live ſo long in health and happineſs, till either you, or any body elſe, could prove it: or yet till you could prove, that *Lewellin* married any other Kinſwoman of King *John* beſides, with whom King *John* gave unto him the Lands of *Budiford* aforeſaid: and you confeſſe *pag.* 9, that *Lewellin* married a daughter of King *John*, named *Joan*; and but one daughter of his: but not that *Joan* which I ſuppoſe: that is as much as to ſay, not *Joan* his Baſtard daughter: then certainly all thoſe ancient Authors by me cited are miſtaken: and whether it be more likely, that theſe all do erre, or you who prove nothing to the Contrary, let the Reader judge. What followes in the ninth Page of your book, is very impertinent to the Point and wild.

Pag. 10, 11, *Of yur* Anſwer *to my* Addenda.

Here you go on and ſay, *pag.* 10, that thoſe Authors (cited by me in my *Addenda*) and ſome others do all tell us of Lands given by King *John* to *Lewellin* with his daughter *Joane*; but none of them do ſay, that theſe Mannours of *Budeford* and *Suttehal*, or either of them, were given with the ſaid *Joane*.

2. And then you ſay *pag.* 11. That our beſt Authors who tell us of the Children of *Lewellin* by the ſaid *Joane*, do only name one ſon called *David*, and two daughters; *Marret*, married to *John Bruſe*; and *Gladys*, wife of Sir *Rafe Mortimer*; but none of them nameth *Hellen*: So that it ſeems, *Hellen* was no daughter of his by the ſaid *Joane*.

My Reply.

To the *Firſt*: I pray you ſee the weakneſs of this Reaſon: for though

thoſe Authors knew of thoſe Lands given in marriage with her, namely *Elleſmere*, which they do mention; yet they might not know of theſe other Lands to be given in Free-marriage, namely *Budeford* and *Suttehall*: which yet clearely appears in the Deed of *Lewellin* unto *John Scot*: See my *Hiſtorical Antiquities. pag.* 152.

To the *Second*: Thoſe beſt Authors (as you call them) is only the Welſh-Hiſtory with *Powel's* Notes thereon, *pag.* 298, and *pag.* 315. which indeed are pittifull Authorities, and very often groſly miſtaken, as they be here alſo: but though theſe have omitted *Hellen* altogether, yet *Vaughan* in his *Britiſh Antiquities*, *pag.* 29. tells us of her, out of an old Manuſcript: The words whereof are theſe —— *Lewellinus Gervaſij filius* [that is, Lewellin ap Iorwerth] *Princeps Walliæ, primò deſponſavit Tanglwyſt, filiam Lhowarch Vychan* * (who was Lord of Angleſey) *de qua genuit Griffith* & Gwlades ddu, *quondam uxorem Radulphi de* Mortuo mari: *Poſt mortem dictæ*

* *See pag. ult. of this Book.*

dictæ Tanglwyſt, *idem Lewelynus deſponſavit* Johannam, *filiam* Johannis *Regis Angliæ, de quâ genuit* David, *Principem*; *&* Guelliant *uxorem* Johannis Lacy *Comitis Lincolniæ*, *&* Angharad *primò deſponſatam* Johanni *de* Brewis *Domino de Brechon*; *poſt cujus deceſſum, deſponſata fuit* Malgoni Vachan *ap* Maelgon *ap* Rees, *& ex eadem uxore genuit filiam quæ maritata eſt* Johanni Scotico, *Comiti Ceſtriæ, qui fuit nepos* Ranulphi *Comitis Ceſtriæ ex parte Sororis ſuæ.* The name of this daughter was *Helene,* as appears by the Deed of *Lewellin*: *Mat. Paris* alſo, and *Knighton*, do tell us that *John Scot* married the daughter of *Lewellin*: And, that ſhe was daughter of *Lewellin* by the ſaid *Joane* daughter of King *John*, is proved by the Manuſcript vouched by *Vaughan*. Therefore you are much miſtaken in ſaying, She was no daughter of *Lewellin* by the ſaid *Joane*.

Guenlian

Pag. 11, 12, *of your* Anſwer *to my* Addenda.

Here the Summ of what you ſay is this: that, becauſe the ſaid *Lewellin* married the ſaid *Joane* in the year 1204, the ſaid *Joane* could have no child in all likely-hood old enough to marry *John* the Scot: why ſo? becauſe *Knighton pag.* 2430 ſaith, that the marriage of *John* the Scot and *Hellene* was agreed upon before *Randle Blundevil* Earl of *Cheſter* went into the Holy Land, in which year Damieta was taken: and this voyage of Earl *Randle* is by *Matthew Paris* recorded to be in *anno Domini* 1218. And then, if *John* the Scot was married before, it muſt be in *anno* 1217. So that *Joan* in that year could not have any child above twelve years of Age.

2. And then you adde, that though I pretend that *John* the Scot did marry the ſaid *Helene* about the year 1222; yet I do that, becauſe ſhe could not well be marriageable till about

bout that time, if her mother had been married in that year, which I falſly ſuppoſed ſhe was.

My Reply.

You here in the firſt place untruly ſuppoſe *John* the Scot to marry *Helene*, *anno* 1217: And you miſtake your Author moſt groſly.

For, *Knighton pag.* 2430 doth not ſay, that the marriage of *John* the Scot was agreed on before Earl *Randle* went into the holy Land: His words are theſe——*Ranulphus*, comes *Ceſtriæ*, *poſtquam concordatus eſt cum Lewelino Principe Walliæ*, *profectus eſt Ieroſolymam*; *& capta eſt Damieta à Chriſtianis.*

Here was a Peace concluded with *Lewellin* before Earl *Randle* went to *Jeruſalem*: not a Syllable yet about any Agreement concerning *John Scot's* marriage: and I acknowledge that Earl *Randle's* voyage was in *Anno* 1218, in which year *Damieta* was taken: for, I find it ſo recorded by *Mathew Paris*, who was an exact obſer-

ver of the year, in all tranſactions: but, admit all were true you ſay, Why might not *Helene* be married at the Age of twelve years, ſince you have a Precedent among your own Deeds ſhewing, that *Joane* daughter of *William Manwaring* of *Over-Pever* was married unto *William Legh* of *Baggiley* when ſhe was but five years old? See my *Hiſtorical Antiquities pag.* 217.

2. As to the *Second*; You ſpeak untruly of me, to ſay, I pretend the marriage of *John* the Scot with *Helene*, to be about the year 1222, which (ſay you) I did becauſe ſhe could not well be marriageable till about that time: whereas I here proteſt, that I took my Authority for it from *Knighton*, whom I vouched in my Book of *Antiquities pag.* 152. (which I take to be the place you ſpeak of) and that when I writ the ſame I had not any conſideration at all of the time of her mother *Joane's* marriage, which vvas then altogether unknown unto me, as at that time having no occaſion to enquire after it: vvhich yet you ſay was falſly ſuppoſed by me about it.

But

But for my obſervation of the time of *John Scot's* marriage to be about 1222. it is very truly obſerved by me from *Knighton pag.* 2430: For if vve regard the Series or Order of his Hiſtory, it is very plain: although *Knighton* doth not for the moſt part put down the year, but very oft omits the ſame.

Firſt then, obſerve, he there tells us that the peace vvith *Lewellin* vvas made before Earl *Randle* went to *Jeruſalem*, in vvhich year Damieta was taken: novv he omitteth the year in the Margent; vvhich yet by *Matthew Paris* is recorded *ſub anno* 1218, vvhen *Randle* Earl of *Cheſter* took that Voyage. 1218.

Then immediately follows in *Knighton* — *Hoc anno* (and yet no year put down in the Margent here neither) *Rex* Henricus *incepit novum opus apud Weſtmonaſterium*: & Ranulphus, *Comes Ceſtriæ, rediens de terrâ ſanctâ ædificavit Caſtra de Chartley*, & *Beeſton*, & *Abbathiam de Deulacres albi Ordinis*, &c. Novv the year of the Nevv work of the Kings Chappel at *Weſtminſter*, is alſo 1220.

Recorded by *Matthew Paris*, *ſub anno* 1220.

And then ſoon after, he tells us,
1221 that *Alexander* King of *Scotland* married *Joane* ſiſter of King *Henry*: and this alſo hath the year omitted by *Knighton* in the margent: vvhich yet is alſo recorded by *Matthew Paris*, *ſub anno* 1221.

And then immediately after it follows in *Knighton*—*John Scot* married the daughter of *Lewellin*, Prince
1222 of *Wales*, as for a final concord and Peace between *Lewellin* and *Randle* Earl of *Cheſter*: here is alſo omitted the year in the Margent: vvhich yet by the ſeries of his Hiſtory falls in *anno* 1222.

Then it immediately follows thus—*John* King of *Jeruſalem* came into *England* for ſuccour for the holy
1223 Land: and this alſo hath no year put down: but *Matthew Paris* records the ſame, *ſub anno* 1223.

So that, if vve mark the ſeries of his Hiſtory, as it vvere digeſted into annals throughout; it ſhows plainly, the marriage of *John Scot* and *Hellen*

to

to be *anno* 1222: vvhich vvas two years after *Randle* Earl of *Cheſter* vvas returned back out of the holy Land: and by this marriage vvas a nevv and firm Peace as it vvere eſtabliſhed between *Lewellin* and Earl *Randle*; as a final Ratification of the former Peace made before *Randle* went into the holy Land:

So then it is clear, that *John* the Scot married *Hellen*, *anno* 1222. and not as you erroneouſly ſuppoſe *anno* 1217: which Argument of yours is a very weak one in it ſelf (without theſe Proofs) againſt *Hellen's* being daughter of *Joan*, baſe daughter of King *John*.

Page 13, 14, 15, 16, *of your Anſwer.*

And now you come to a fourth Reaſon, which (you ſay) will abſolutely clear the Point, that *Lewellyn* could not poſſibly have given the ſaid Mannours in Free-marriage with his daughter *Hellen*, unleſs they had been given to the ſaid *Lewellin* with a former wife (meaning a former wife before *Joan* the

the baſe daughter of King *John*) and that the ſaid *Helene* was the heir to that former wife: Why ſo? Becauſe when lands are given in free-marriage, the Husband hath not the inheritance of the Lands, nor ſo much as an eſtate for life therein unleſs he be Tenant by the curteſy of *England*: and I cannot pretend (you ſay) that the Law was differing in this point in elder ages from what it now is: and then you cite my Lord *Cook* upon *Littleton fol.* 22. *a.* and *Fleta lib.* 3. *cap.* 11. and alſo *Bracton lib.* 2. *cap.* 11. and *Glanvil lib.* 7. *cap.* 18. and ſo conclude in your 16th. page, that it is clear that the lands which were given with the ſaid *Helene* to the ſaid *John* the Scot, were given to the ſaid *Lewellin* with a former wife, who was Kinſwoman to King *John* and mother to the ſaid *Helene*, or elſe the Gift to *John* the Scot could not be good: and then you cloſe with a *Circumquâque* of an——*if* the mother of the ſaid *Helene* was dead at the time of the Gift to the ſaid *John Scot*, then *Lewellin* being tenant by the curteſy of *England*, and the inheritance being in the

the ſaid *Helene*, he might paſſe away the Eſtate, *&c.*

My Reply.

One would think now by your words, that you had knockt the matter dead with this Reaſon, which is but a Vizard to ignorant People, and eaſily pulled off by wiſe Men: and (like Rotten Stuffe) will fall in Pieces in the handling: And therefore, to blind the world, you bring in another Peece of Law by the head and ſhoulders (as you conſtantly do, and impertinently) as if you would prove this Point by Law, when you neither do nor can prove it, neither by Law, Hiſtory, or Reaſon:

And Firſt, I grant all your Quotations, and what by thoſe Lawyers is there ſaid: But, that is not to the point in hand: for you run upon a falſe Ground, and ſuppoſe *Helene* daughter of a former wife, which I utterly deny, and have before proved to be daughter of *Joan* aforeſaid, the wife of *Lewellin*, and daughter of King *John*

John: *suprâ*, *pag.* 29. And by consequence, being daughter of *Joan* who was the cause of the Donation, the lands might lawfully passe to *Hellen* in Free-marriage according to the Lawyers by you cited: and so your Law-case herein (which is impertinently urged) is totally out of Doors: Wherefore, all wise men may judge, how absolutely you clear the Point, when you have not a word to the Point: and now I will joyn issue with you herein,—Whether *Joan* base-daughter of King *John* was wife of *Lewellin*, and mother of *Helene*, I or no? I affirm it, you deny it.

Now to prove my assertion herein, I have produced *Polychronicon*, *Stow*, *Speed*, *Vincent* upon *Brook*, and may also add learned *Cambden* in Shropshire who citeth an ancient Chronicle of *Cheshire* for it, & *Daniel*, and *Milles*, and Sir *Richard Baker*, and *Fabian*, who do all call her Base-daughter of King *John*: some others, only daughter of King *John*: whereby you would now put me to prove it by an Author contemporary, who styleth her base-daughter: What though I can-

cannot? She is called so by an Author, who lived near 400 years ago: and the chiefest of our modern Historians do all call her so: but you will not be satisfied with sufficient and clear Authority, as in *pag.* 25, 26, of your Answer, you urge *Matthew Paris*, and the writ of *Livery de terris* de *Ellesmere*, 6° *Johannis*, which call her daughter only, as an argument that she was therefore no bastard: nothing was more usual, than in ancient Authors, & old Deeds, to have such stiled daughters without the addition of Bastard; and this you may see clearly illustrated in my Book of *Antiquities pag.* 137. whither I shall refer the Reader; and so can be no Argument of Legitimacy, especially where other Authors do plainly call her Bastard: And your denying of this, shows you to be no great Antiquary, or else disingenuous in making so impertinent an Argument to prove a Legitimacy, if you do know it: for, such proofs show her to be a daughter, but whether lawful or unlawful, it is no proof at all.

Again; I argue further, that it appears not at all by any Author or record

cord whatſoever, that King *John* had any more daughters called *Joan*, but only two: *Joan*, his legitimate daughter, marrried to *Alexander* King of *Scotland* at *York*, *anno Dom.* 1221. this is recorded by *Mathew Paris pag.* 313. & I believe you will not deny this: Now this cannot be that-*Joan*, who was long before married to *Lewellin*, *anno* 1204, and was alſo yet living at that time when the ſaid *Alexander* King of *Scotland* was married: and *Paris* in the place aforeſaid calleth *Joan* the wife of *Alexander*, *Sororem Henrici tertij*, *ſeniorem*: for ſhe was the daughter of King *John* by his wife *Iſabel*: & then being married but *anno* 1221, cannot by any rational man be preſumed to be ſo old as that-*Joan* who married *Lewellyn*, *anno* 1204: wherefore *Joan* the wife of *Lewellin* muſt be another *Joane*, and by ſome other woman beſides his wife *Iſabel*: wherefore it ſtrongly inferrs, ſhe muſt be daughter of King *John* by *Agatha de Ferrars*, as our Hiſtorians do tell us: or elſe muſt be proved to be his daughter by ſome other

wo-

woman, by better proof: and ſo by conſequence was mother of *Helene*, unleſs you can find out a third *Joan* who was another lawful daughter of King *John* by his wife; and married alſo to *Lewellin*. Prove it without *Ifs* and *Ands* (as we ſay), and take it: or elſe ingenuouſly confeſſe, that you cannot prove it, and never trouble a Reader with impertinent Arguments. I am ſure, as yet you have not the leaſt ſyllable proving *Hellen* to be the daughter of any former wife to *Lewellin*, nor yet any other third *Joan* to be another lawful daughter of King *John* (as you ſuppoſe there was, untruly without any ground) neither indeed have you proved the leaſt ſyllable of any third *Joan* at all.

Wherefore I think all indifferent men may ſafely conclude, that *Budiford* and *Suttehall* were given by King *John* unto *Lewellin* in Free-marriage according to the Deed, unleſs you will deny the Deed which is yet extant to be ſeen; and alſo that *Joan* the wife of *Lewellin* was the Baſe-daughter of King *John*, and mother

of

of *Helene*, as is clear by Hiſtorians, unleſs any ſhall (as you do) deny all Authority of Hiſtorians: and therefore it is plain that in thoſe elder Ages, Lands did paſſe with baſtard-daughters in Free-marriage, as well as with others, as we ſee here they did with the ſaid *Joan*.

Page 17, 18, *of your* Anſwer *to my* Addenda.

Here you tell me, that I erre a fifth time, in ſaying, that *Joan* the wife of *Robert de Audley* was the ſame *Joan* who was wife to *Lewellin*.

Reply. I erre not: *Vincent* affirms it, and citeth a Record of *Clauſ*. 14. *Hen*. 3. for it: and why ſhould you, or any other, ſuſpect that either *Vincent* or the Record erreth herein?

Object. Becauſe (ſay you) it is impoſſible that *Joan* daughter of King *John* by *Agatha*, could be wife to *Lewellin*, in *Anno* 1204.

Reply. But this impoſſibility, as you apprehend, is out of a falſe ſuppoſition: for here, you referr us to what you

you have before ſhewed: which (as I take it) is in your 3, & 4, *pages*: which I have alſo before Anſwered *ſuprà*, *p.* 17, 18. for I agree with you, that probably *Vincent* is miſtaken in ſaying *Agatha* was daughter to the ſecond *William de Ferrars*: and therefore that impoſſibility is removed: for I believe, ſhe was either daughter of the firſt *William de Ferrars*, which *Vincent* might eaſily miſtake; or elſe daughter of *Robert de Ferrars*, as *Speed* ſaith ſhe was: but, that *Joan* was daughter of *Agatha de Ferrars*, nothing is, nor can be ſaid by you againſt it: it is no matter whoſe daughter *Agatha* was, as to the point in hand.

Obj. And then you further aske, how can this *Joan* wife of *Robert de Audly* be the ſame *Joan* who was wife to *Lewellin*, unleſs ſhe had two Huſbands living at one time? and how can *Vincent* ſay, that ſhe was remarried to *Audly* after *Lewellin's* death; who dyed not, till the 24 of *Hen.* 3. 1240.

Rep. To this I have told you in my *Addenda*, and now tell you again, that, I believe *Vincent* is miſtaken in ſaying it was after the death of *Lewellin*, that ſhe was remarried to *Audley*:

But I tell you alſo, that it ſeemes to me, that ſhe was divorced from *Lewellin*: of which I gave you ſome Probability by circumſtances vouched out of *Mathew Paris*, and *Knighton*: and if ſo, ſhe might be married again in *Lewellin's* life-time, and yet have but one Husband at a time neither: That, great Perſons uſually married again after a divorce in thoſe ages: See a Precedent of *Randle* Earl of *Cheſter* & *Conſtance* his wife, in my book of *Antiquities pag.* 144, and 146. where both Parties married again after their Divorce, & in the life-time of each other.

And if ſhe married *Audley anno* 14. *Hen.* 3. then is it a ſure Argument, that ſhe was divorced: And whether ſhe were ſo married or no, *anno.* 14. *Hen.* 3. let the record vouched by *Vincent*, be the Judge.

Obj. But, in Page 18 of your *Anſwer* to my *Addenda*, you object againſt a ſuppoſition of a Divorce, thus——how can we think a Prince of *North Wales*, and a daughter of King *John*, could be divorced, and both of them marry again in their life-time, and no Writer take notice of it? *Rep.*

Rep. Yes, very well: for, if I might Anſwer it with another Queſtion, how many ſuch like occurrences are daily found out by Deeds and Records, which never any Hiſtorian (that we know of) hath mentioned? and yet we find ſome dark Steps of this in ſome Hiſtorians.

Obj. Again page 20, you ſay, that, if I would have added further, what is ſaid in the Welſh-Hiſtory *pag.* 293, *ſub Anno* 1237—Then dyed *Joan*, daughter of King *John*, Princeſs of *Wales*, and was buried on the Sea-ſhore within the Ile of *Angleſey* at *Lhanuaes*, as her pleaſure was: where the Prince did build a houſe of Barefoot-Fryars over her grave: this (ſay you) would have given ſatisfaction, that ſhe was never divorced: becauſe certainly (as you ſuppoſe) the Welſh-Hiſtory would not have then called her Princeſs of *Wales*, nor the Prince have built that houſe over her.

Rep. I think, it would have given but little ſatisfaction in that Point: you know well, that a woman ſhall not loſe her place or Title, though ſhe

marry below her Quality: was not Queen *Catharine*, who married *Owen Tudar* in her Widowhood, called uſually Queen *Catharine*, notwithſtanding that marriage? And as to the building of a houſe over her Grave, it was no great matter for the Prince to do, who had been formerly his wife, in regard of her Quality: And ſuppoſing a divorce, it poſſibly might be more his fault then hers; and ſo with ſome remorſe might ſhow ſome action of kindneſs, at laſt.

Pag. 21. *Of your* Anſwer *to my* Addenda.

Here you make an objection againſt your Self, and ſay; that though *Joan* the wife of *Lewellin* was not the baſe-daughter of King *John* by *Agatha*, yet it is likely ſhe was his baſe-daughter by ſome other woman, becauſe of thoſe Authors by me cited to that purpoſe.

Whereunto you Anſwer firſt, that it is nothing to the caſe of *Amicia*, whether the ſaid *Joan* was a Baſtard or no, as you before have proved.

2. It

2. It doth not yet certainly appear to you, that ſhe was ſo: for, though thoſe Authors [by me cited in my *Addenda*] and ſome others, do ſay, ſhe was a Baſtard; yet they are not much to be regarded: why ſo? becauſe *Polychronicon* was a more ancient Hiſtory than any of the other Authors which I have taken notice of, and yet the Author thereof dyed 1363, which was 159 years after *Lewellin* had married the ſaid *Joan*.

My Reply.

To the *Firſt*: If this be nothing to the caſe of *Amicia*, I pray you, what is? Your only Argument that *Amicia* was no Baſtard, is, Becauſe ſhe had Lands given with her *in libero maritagio*: for you take your ground-work from the Common-law of later Ages (which yet is a falſe ground of the Law taken in thoſe elder Ages) that lands could not paſs with a Baſtard-daughter *in libero maritagio*.

Now then, if *Joan* be a Baſtard-daughter, and had lands given unto her *in libero maritagio*, in thoſe elder

Ages, as is by me before clearely proved, both by *Lewellin's* own Deed, made 1222 (wherein the other former Deed of King *John's* is plainly mentioned;) as alſo by ſeveral of our Hiſtorians confirming that ſhe had other lands *in maritagio* likewiſe, and nothing at all Solidly by you proved to infring theſe Authorities; then muſt it needs follow, that lands paſſed *in libero maritagio*, in thoſe more ancient Ages, with Baſtards: and ſo your chief Argument quite overthrown, which you bring to uphold *Amicia* from being a Baſtard: And yet you ſay, it is nothing to the Caſe of *Amicia*, whether the ſaid *Joan* was a Baſtard, or not.

2. To the *Second:* If you deny the Authority of Hiſtorians, then muſt you needs yield up the Cauſe, for, this being a Queſtion of Hiſtory, whether Baſtard or no Baſtard, & not of Law, & the Precedents of the Law of thoſe Ages now contrary to what you alledge, and cannot therefore be ſupported by Law, it muſt needs be tryed by Hiſtorians, or Records, or no Way.

And,

And for what you urge, that the Author of *Polychronicon* dyed above 150 years after that marriage, it is certainly a weak Reaſon to infring his Teſtimony, who lived above 350 years ago; and might very well receive that truth from others, who did know it: as other Hiſtorians do convey from time to time many things even to our own Age: ſome taking notice of one thing, and ſome of another: and ſome not regarding at all, whether Children be Baſtards or no Baſtards: which thing if by Hiſtorians it had always been carefully and diligently recorded from time to time, it would have brought more things to our Knowledge, then now we can poſſibly know.

Pag. 22, *&* 23, *Of your* Anſwer *to my* Addenda.

Are all impertinencies, and not worth the taking notice of: For it only reckons up the wives of King *John.*

Pag. 24. *Of your Anſwer to my* Addenda.

The only Queſtion then will be (you now ſay) whether *Lewellin*'s wife was King *John's* legitimate daughter by his wife *Hawiſe*: and if ſhe was, ſome of our Authors taking notice but of two daughters named *Joan*, which the ſaid King had, did thereupon miſtake *Joan* the wife of *Lewellin*, for *Joan* the wife of *Robert de Audley*, and ſo did miſlead ſeveral of our late Authors.

My Reply

That *Lewellins* wife was not King *John's* legitimate daughter by his wife *Hawiſe*, it is out of Queſtion: *Hawiſe* had no child at all by the King: and, I believe no body but you, would make it a Queſtion: and, for the miſtake, which you would fain ſuppoſe to be made by ſome of our Hiſtorians to miſlead others, it is ſo ridiculous that another would be aſhamed to own it: it is not

not fit to be put down, nor worth an Anſwer: and ſo you would ſuppoſe three *Joans*; one to *Lewellin*, another to *Robert de Audley*, and another you cannot deny married *Alexander* King of *Scotland*: But how will all theſe be proved? ſure, you never expected this Book of yours to be read by Judicious Perſons.

Pag. 25, 26. *Of your* Anſwer *to my* Addenda.

Mathew Paris, *Knighton*, and others (you there tell us) do call the wife of *Lewellin*, daughter of King *John*, without the Addition of Baſtard: and therefore muſt be ſuppoſed to be a lawfull-daughter.

My Reply

If theſe had called her *Lawfull-daughter*, you had ſaid ſomething to the matter: But other Hiſtorians tell you, ſhe was a Baſtard-daughter: theſe call her daughter, but whether Baſtard or no Baſtard, they ſay not: which

which is no proof at all for legitimacy: ſhe is called daughter, *ergò* ſhe was a lawfull daughter: See the weakneſs of the Argument: you oft run upon this ſtrain: See more of this, *ſuprà pag.* 39, &c.

Pag. 27,28,29,30. *Of your* Anſwer *to my* Addenda.

Theſe are all impertinencies: only *Pag.* 30 you ſay, that you ſee no Reaſon to conclude *Joan* to be a Baſtard, until it be proved that ſhe was ſo, by ſome Record, Deed, or Good Authority who lived in that Age: and then you adde that it is not material to the caſe in hand, whether the ſaid *Joan* was a Baſtard or not, becauſe all the Gifts I mention in my *Addenda* are either not Gifts in *Frank-marriage*, or elſe not given to the ſaid *Lewellin* with the ſaid *Joan*.

My Reply.

In the firſt place, I ſee; you reſolve not to be convinced: But though you be

be ſo diſingenuous, as not to credit other good Proof of *Authority* and *Reaſon*, yet other Judicious and indifferent Perſons will and ought to ſubcribe to Reaſon. And for what you alledge againſt the Gifts of *Frank-marriage* in my *Addenda*, theſe are but your own Words, and are not more weighty for that, without juſt Proof: But I have anſwered this before, *pag.* ~~28, 29~~. *ii, 12, 13, 14.*

Page 31. *Of your* Anſwer *to my* Addenda.

Here you ſay, that, you did in your former Book give me ſome Reaſons, why the words of *Glanvil* did not prove what I ſuppoſed they did, and in the 38 and 39 pages of your Reply did tell me how I had left them unanſwered; and that *Glanvil* did not ſay, that lands might be given with any woman *in liberum maritagium*, but only *in maritagium*: and yet, I had the confidence after all this again, to father on Mr. *Glanvil* what he never either meant or ſaid.

My

My Reply

Now, let us see the words of *Glanvil, lib. 7. cap.* 18. Whether he doth not say that, Lands may be given with any Woman *in liberum maritagium*: his words are these——*Maritagium, aliud nominatur liberum, aliud Servitio obnoxium: Liberum dicitur Maritagium, quando aliquis liber homo aliquam partem terræ suæ dat cum aliquâ muliere, alicui, in maritagium; ità quod, ab omni Servitio terra illa sit quieta*, &c.

So then; any ~~man~~ *one* may give part of his land to any man with any woman in marriage, so that it be quit from all Service, *&c.*

But, *Glanvil* saith, that, Lands so given *est liberum maritagium:*

Ergo, Glanvil saith, Lands may be given with any woman, *in liberum maritagium.*

Now let the Reader Judg, Whether I, or You, have the greater confidence in affirming an untruth: and I said in my *Addenda*, and truely too, that

that you had endeavoured to reſtrain *Glanvil's* words [*cum aliquâ muliere*] but you could not juſtly do it: nay, the word *in maritagio*, both in *Glanvil*, Hiſtorians, and old Deeds, ſeems not rarely to be underſtood for *libero maritagio*. See more hereof, *ſuprà pag.* ~~135~~. 21.

Now we come to your Anſwer touching the Accuſations, Untruths, and Abſurdities which you fathered upon me in your former *Reply*, and do here ſeek to palliate: which yet are nothing to the point of the controverſy between us.

Page 32, *Of your* Anſwer *to my* Addenda.

Here you tell me of ſome Reports of what I intended to do, before I put out my *Addenda*: and, when the ſaid *Addenda* were put out, all, till the 7*th* page did concern *Amicia*: ſo that I was not juſt to my Word in my former *Anſwer*: and by the ſame reaſon, I might write always, and ſay I do ſo, as *Addenda* thereunto.

My

My Reply.

As to the Reports, whatsoever you were told by any Person whomsoever; I never intended any other then what I did put out: which were those *Addenda* to my Answer: But those were only some few Precedents, which I had omitted in my *Answer*; and whereof I gave you notice, before your *Reply* was published: but your *Reply* comming out before my *Addenda* were Printed, I found in your said *Reply* some unjust Accusations and Absurdities cast upon me: and so added further therein a Justification of my self from those unjust aspersions in your said *Reply* whereunto I was necessitated in my own Vindication: wherein yet I purposely omitted many other things in regard of my Word, as I told you in the very close of my *Addenda*: And now in your *Answer* you tax me for not being just to my word, and have aggravated other matters by another book: so that I cannot now incur a worse

worſe cenſure by you, though I alter my former reſolution, & ſhall Write on in my own Defence as long as I ſhall judge it neceſſary, as I have already before in this book told you.

Page 33. Of your Anſwer *to my* Addenda.

Here you tax me of Partiality: and did it, that you might let the world know, that there was ſomething elſe beſides love of truth, which made me to write what I did touching *Amicia.* And here you appeal to the Reader, whether you did not avoid all offenſive expreſſions: this is all your Anſwer here, as to that aſperſion of yours: which I have before touched in my *Addenda.*

My Reply.

As to what you ſuppoſe of my Partiality (whereof I have been lately informed, that you have told it to others) perhaps you might judge other-

therwiſe, if you knew all circumſtances: but eſpecially that when I writ that Pedegree, which was long time ago, even about the year 1654, preſently after the death of the laſt Perſon therein named, the truth (of what you ſuppoſe I ſhould have inſerted) was at that time altogether unknown unto me: But you will ſay, I had time enough to have informed my ſelf before my Book was Printed: which yet I never intended to Print, till the very time it was Printed: and that was but by Accident neither: Nor could I ſo perfect it on a ſodain, as you or others might perhaps expect: ſo that I have omitted the laſt deſcent and iſſue of ſome other families, as well as that: which were yet leſs material than thoſe of former ages: in regard thoſe of this laſt age will more eaſily be found out by Poſterity, and are now known to every one.

And admit I were Partial never ſo much, in what you charge me with, yet I hope what I have written you find it impartial to all, ſo far as

I go and do know: would this cure your uncivil Expreſſion towards me in another thing? you ſay, I do but pretend unto Truth touching *Amicia*, and that it was ſomething elſe beſides love of truth (which you ought in clear dealing to have expreſt what that ſomthing was, that ſo I might better Anſwer for my ſelf or confeſſe my errour) which moved me to place *Amicia* in that order in my Book, as I have done: The Sum in Engliſh without mincing is all one, as if you ſhould have ſaid thus.——You are Partial to another, but here you do but pretend to truth: for it is not truth that moved you, but ſomthing elſe: I ſay, that it was only Truth that moved me, and that what I have writ is according to the dictate of my conſcience to the beſt of my Judgment: no, ſay you, I do but pretend to truth, I do not ſpeak the truth herein according to my Conſcience, it was ſomewhat elſe that moved me to it, beſides truth: ſee here then, the one of us muſt now ſpeak an untruth: and ſo having

ſaid enough of this, I refer it to the Reader, whether that expreſſion was civil and without offence, which you ſay you did now avoid.

Page 34. *Of your* Anſwer *to my* Addenda.

Here you come to excuſe an errour and ſay, that you called *Rauſe Manwaring* Chief Juſtice of *Cheſter*, becauſe you find in my Hiſtorical Antiquities pa. 160, and alſo in other places, there were in the time of *Hugh Cyveliok*, ſometimes two Juſtices of *Cheſter*, and ſometimes but one.

My Reply.

I ſhould be glad, if you would ſhow me any ſuch a Precedent, wherein two juſtices of *Cheſter* were in that Age mentioned to be ſo, both at one time together: I deny not, but ſome times the Earls of *Cheſter* in thoſe ages might direct their Deeds to their officers ſometimes in the ſingular number, and ſometimes in the Plural: as thus——*Hugo comes Ceſtriæ, conſtabulario, Dapifero, Juſticiario, Vice-comiti, & omnibus Baronibus ſuis, &c,* and

and ſometimes in the Plural number thus——*Hugo Comes Ceſtriæ, conſtabulario, Dapifero, Juſticiarijs, Vicecomitibus, & omnibus Baronibus, &c.* But this is farr from Proving either two Judges, or two Sheriffs at one time, and are here to be underſtood ſucceſſively, or with their Deputies under them; as might happen to the Sheriffs oft, but very rarely to the Juſtice: for I have obſerved that generally in thoſe ages the Juſtice is for moſt part put in the Singular number [*Juſticiario*]: for then they executed their places themſelves, no Power being given to them in thoſe ages to make or Conſtitute a Deputy (by commiſſion) at pleaſure, as we have now, and in theſe later ages, hath been uſually done: yet poſſibly upon an emergent occaſion, the ancient Earls might conſtitute another Judge for the Preſent in the abſence of the other to execute the place for a time, and ſo change them as oft as was thought good: But never ſhall we find two Judges executing that office at one time together in thoſe Ages, [at *Cheſter*]

that ever I could yet meet withall.

Wherefore here is a great disingenuity, and a Pitifull Shift to palliate a plain errour, and will easily appear to all Judicious Antiquaries.

Page 35, of your Answer *to my* Addenda.

Here to make good another untruth you fastened upon me in your former Reply, pag. 9. namely, that I said *Geffrey Dutton* was a witness to his own Deed (which I never did say) you would now make it good out of my own words which are these:——pag. 4, 5, of my *Answer* to the Book of your *Defence of Amicia:* Several other Deeds I have seen of the same Person, wherein I dare affirm among the Witnesses subscribed, he hath five times and more the Word *Domino* omitted, for once that we find it prefixed to his name.

From these words of mine, you now tell me in your *Answer* to my *Addenda*, let the Readers (if they can) find out, how I could imagine his name to be at any time amongst his own Witnesses,

Witneſſes, if I did not take him to be a Witneſſe to his own Deeds.

My Reply.

Therefore that I may at once clear this Cavill of yours, you miſtake the ſence of my words, contrary to what I underſtand them: When I ſay, that I have ſeen ſeveral other Deeds of the ſame Perſon, I mean and underſtand ſeveral other Deeds touching the ſame Perſon: for the word (*of*) is uſed many times for *concerning*, as of or *concerning* the ſame Perſon: the *Latine* will demonſtrate the word plainer, as *de illo*, that is, of him or concerning him: whereas when it is to be underſtood as you would have it, the *Latine* ſaith, *Varias ejusdem Perſonæ Chartas*: But the Engliſh word (*of*) will bear it in either ſence: and by the words following, if you had not been too Captious, you might eaſily know my meaning. And ſo much of your unjuſt Calumny of me: ſee the reſt in my *Addenda*, Pa. 11, 12.

Page 36. *Of your* Anſwer *to my* Addenda.

Where you tell me, that what I ſaid in my *Addenda pag.* 11; namely, that if he had been a Knight, he would have called himſelf by his *Title*, as *ego Galfridus de Dutton, miles*; or, *Ego Dominus Galfridus de Dutton, dedi, &c.* But this is directly contrary to to what I writ in the bottom of the fifth Page of my Second book.

My Reply.

I ſay thoſe words are not contrary to what I writ in the bottome of the ſaid 5. Page: for in that Page I ſpoke Principally of the word *Dominus* as it was uſed for a *Lord of a Mannour*, and was always joyned with another Word, as *Dominus Moaldiæ*: and is to be underſtood with an exception alſo of Knights, for thoſe alſo uſed the word *Dominus* but joyned it to their name, as, *Ego Dominus, A. B. dedi, &c.* even in their own Deeds, when

when they were Parties to the ſame: whereof you may ſee I ſpake in the 7. Page following: ſo that all may ſee, how you cavil about nothing.

Page 37. *Of your* Anſwer *to my* Addenda.

Here you would fain Palliate another Groſſe Miſtake of your own in your former Reply, where you ſaid that *Domino Galfrido de Dutton* (one of the Witneſſes to the Deed of *Geffrey de Dutton* to his daughter *Margaret* of the Mannour of *Nether-Tably*) was Father of *Geffrey de Dutton* Party to the ſaid Deed: which you ſeek to do, firſt in ſaying that I have not ſeen Sir *George Warburton's* Deeds, and therefore the father might well live on to be Witneſſe to that Deed.

2. In ſaying that one of the *Geffrey Duttons* of *Chedle* was a Knight, for which you cite my Book of *Antiquities pag.* 206, though I conceal it in my *Addenda:* which will ſerve your Turn, you ſay, becauſe I would have the Reader to believe that there was

no Sir *Geffrey Dutton* living when the Deed of *Tabley* was made: and if Sir *Geffrey of Budworth* was then dead, then that *Domino Galfrido de Dutton* in that Deed muſt be applyed to *Dutton of Chedill:* for certainly *Domino Galfrido de Dutton* muſt be applyed to one of the Knights.

My Reply.

I never ſaw ſuch Shuffling and cutting (as I may ſay) as you here make, to avoid a moſt Palpable groſſe Miſtake of your own, which yet in your *Reply* you endeavoured to have charged upon me, about that *Domino Galfrido de Dutton:*

As to the firſt Reaſon: becauſe I have not ſeen Sir *George Warburton's* Deeds, *ergò* Sir *Geffrey Dutton* the Father might live on very well to be a Witneſſe to his Son's Deed of *Nether-Tabley*: what ſtrange and wild Reaſon is this? if you Speak of an Abſolute poſſibility, it might be ſo: and ſo it might be, if I had ſeen all his, and all other men's Deed's: But I have Deeds of

of my own, Probably demonſtrating *Geffrey Dutton* ſon of *Adam Dutton*, to be dead before this Deed of *Nether-Tabley* was made, long time.

To the Second: I confeſſe, I do call one, Sir *Geffrey Dutton* of *Chedil*, in my book: but I call him not Sir *Geffrey Dutton* of *Chedill* Knight, as you alledg, nor doth he in my Authority there vouched write himſelf, *Ego Dominus Galfridus de Dutton:* But in *Hamon de Maſcyes* Deed unto him, he is called *Domino Galfrido de Dutton*, which is that Deed which is cited by me in my book: which you ſay I do conceal in my *Addenda*, becauſe I would have the Reader to believe, that there was no Sir *Geffrey Dutton* living at the time when the Deed of *Nether-Tabley* aforeſaid was made: My words in my *Addenda* are *pag.* 13,—All theſe *Geffrey Duttons* (if I miſtake not) I have ſeen ſometimes ſubſcribed with *Domino* prefixed: but not any (that I remember) writing himſelf thus —*Ego Dominus Galfridus de Dutton, dedi, &c.* And then for your aſſerting certainly, that *Domino*

mino Galfrido de Dutton must be applyed to a Knight, perhaps it may sometimes, but not always: this the *Logicians* call *Petitio Principij*, or a begging of the Question: but what all this is to the Point of clearing your self of the Grosse absurdity aforesaid, I know not: I am sure it argues much disingenuity by Justifying your errour, without a just ground or reason.

Page 38, 39, *of your* Answer *to my* Addenda.

Here you say, though I told you that *Margaret* was daughter, but not daughter and heir of *Geffrey Dutton*, as you alleaged in your former Reply; yet you cannot tell, how that will appear without the sight of Sir *George Warburtons* Deeds; because Sir *Peter Dutton* might be son to a *Geffrey Dutton*, and yet Brother and heir-male to *Geffrey* the Father of *Margaret*: but then you adde, it can be no Grosse one, if it be any mistake at all.

My

My Reply.

Every man cannot but now ſee a conſtant diſingenuity, and an opinionated reſolution in you againſt truth it ſelf; or to whatſoever I ſhall ſay, right or wrong. Though you partly acknowledge this a miſtake with an *if*, yet you will extenuate it, not clearly and ingenuouſly confeſſe it: which indeed you do all along through the whole courſe of your Book.

My own Deeds do illuſtrate this, if occaſion were to produce them, as clear as the Sun at noon-day: and that Sir *Peter Dutton* Knight (whom I find ſeveral times ſo ſtiled) was not only heir, but ſon alſo to the ſame *Geffrey Dutton* who gave *Nether-Tably* to *Margaret* his daughter. But of this enough.

Page 39. Of your Anſwer *to my Book of* Addenda.

You would here alſo Beſpatter me with a falſity, and do ſay, becauſe I would

would make you believe that I formerly meant as I now pretend, that I did a little after Speak pag. 14, Of my Addenda of Knights who usually stiled themselves thus---- *Ego Dominus A. B. dedi, &c.* or, *Ego Dominus A. B. miles dedi, &c:* But, whoever can find those words in my Answer, can find out that which you are not able to do.

My Reply.

I confesse those words are not in my Answer expresly: But what I put here by *A. B.* are in my Answer pag. 7. instanced in, by your own Ancestours thus---- *Ego Rogerus*, or *Ego Willielmus Manwaringe miles*: Nor did I well, though my instance be to the same Purpose, to vary a Tittle from the instance in my Answer: because I referred to my Answer: and it is a negligent Errour.

Pag. 40, 41, *of your* Anſwer *to my* Addenda.

Where firſt you ask me, why *Domino* prefixed to the name of a Witneſſe (who was not a Clergy-man) is not a good proof that he was a Knight? eſpecially ſince ſome, who are likely to be moſt skilful in thoſe matters, are of Opinion that it is:

2. You again ask me, why I was more complemental in my Anſwer, then in my Addenda, in calling, *Raufe*, *Roger*, and *William Manwaring* Knights?

3. Why do not I prove the word *Domino* prefixed to ſome Perſons names, before they were made Knights? or to one, who was no Clergy-man, and but an eſquire at the time of his death?

4. Page 41. Why doth not the word *Domino* prefixed to the names of *Raufe*, *Roger*, and *William Manwaring*, prove them to be Knights, as well as it doth Prove two of the *Geffrey Duttons* to be Knights?

5. Why

5. Why did not I anſwer your Queſtion in your Reply pag, 16, if the word *Domino* do only Signify Maſter, why is it put before the names of ſome Witneſſes, and not of others? although other Perſons to whoſe names it is not put, are many times Lords of a greater eſtate.

6. Why I doe not call all the 4 *Geffrey Dutton's* Knights, as well as two of them?

My Reply.

To the firſt, I Anſwer; that, as ſome skilfull men are of opinion, that *Domino* prefixed in ſubſcriptions of Witneſſes in thoſe elder Ages under *Hen.* 2. *Rich.* 1, and King *John*, ſuch were always Knights, where it is not Prefixed to Clergy-men; So other skilfull men are of Opinion, that it was ſometimes alſo prefixed in thoſe ages to Perſons of better Sort and Quality though no Knights, as well as to Knights, and Clergy-men: of which laſt opinion is Mr. *Wood* of *Oxford* the Antiquary and Mr. *Blunt* of

of the Temple, as I was by letter informed from the ſaid Maſter *Blunt*, 1673.

2. To the Second: I did not call your three Anceſtors in my Anſwer Knights out of a certain ground unto my ſelf that they were ſo, but becauſe you had ſpoken to me thereof before, and I knew your deſires therein, and therefore out of my civility called them ſo: for I there tell you in my *Anſwer*, that I had rather give to all, eſpecially to your family, more then is due, than leſſe: Howbeit you urged me in your Reply to a Reaſon: which, ſee in my *Addenda* pag. 16, 17.

3. To the third I have ſo proved (as I conceive) the word *Domino*, given to ſome Perſons of greater Quality in ſome Notes of mine in Manuſcript on the ſeveral notions of the Word *Dominus*, who were neither Knights, nor clergy men: but theſe brief Notes I never yet Printed, Eſquire were none in thoſe Ages:

And, I think it will not be amiſſe, for me to tranſcribe thoſe notes of the ſeveral notions of the word *Dominus*, in this Place. The

The Latin word *Dominus*, and the Greek work κύριος, and our English word *Lord*, do properly and usually expound one another: and, as the Greek word, κύριος hath its name ἀπὸ τῦ κυριεύειν, so the Latin word *Dominus*, *à Dominando*; both of them properly signifying one that hath authority and power of Rule:

1. Ὁ Κύριος, and *Dominus*, and the *Lord*, being put absolutely and alone, are, by way of excellency, always to be understood of God, or Christ: in whom is all Power and Dominion in Heaven and earth: and, in this notion, we have it frequently used in holy *Scripture*. So also, *Anno Domini* (put alone) is always understood of *Christ*, being a usual computation from the Birth and Incarnation of our Saviour.

2. Sometimes the word *Dominus*, and *Lord*, are joyned with another word by way of Restriction: as *Dominus Imperator*, *Dominus Rex*, *Dominus Papa*, *Dominus Episcopus*, *&c.*

It seemeth to have been applyed to the Kings of *England* all along from the

the time of the *Norman* Conqueſt:] as *Dominus Johannes Rex*, and *Excellentiſſimus Dominus Henricus Rex*: See in my Book of *Antiquities* of *Cheſhire*, pag. 149, and 152: Many other examples might be cited herein. So in all our Endictments it is ſaid, *contrà Pacem Domini Regis*: and, thus applyed, it is always rendered in Engliſh—*Our Soveraign Lord the King*: becauſe of the Supreme power inherent in our Kings: *Soveraign* in French ſignifies, one that hath no Superiour: and this Appellation of *Soveraign Lord*, I find in the Statutes of 7 *Edw.* 1, and 13 *Edw.* 1. and ſo downwards, through the whole book of our Statutes.

3. Sometimes the word *Dominus* is applyed to inferiour Perſons, & Subjects:

As Firſt, To Lords of greater Territories: ſo, in *anno* 1176, when *Henry* the 2*d.* gave *Ierland* to *John* his younger ſon: who (after that he became K. of *England*) aſſumed the Title of *Dominus Hiberniæ*, to his other Titles: ſee my Book of *Antiquities* pag. 77.

Sometimes to Lords of leſſer Ter-

ritories: So I find it applyed about the beginning of King *John's* raign, thus---*Ego Robertus Dominus Moaldiæ, & Seneſchallus Ceſtriæ, conceſſi Domui Sanctæ Werburgæ Virginis in Ceſtriâ, totam villam de Goos-Tree, &c.* The Original of this Deed is now in Poſſeſſion of *Manwaringe* of Barnſhaw in *Cheſhire:* And it was moſt frequently applyed to every Particular Lord of any ſmall Mannour or Village under King *Edward* the firſt; as is apparent out of my own Deeds and Charters: as, *Ego Willielmus, Dominus de Tabley*; about 20 *Edw.* 1. *Q. num.* 11. This was *Over-Tabley:* alſo, *Ego Willielmus de Tabley, Dominus de Knotsford, dedi—&c:* about 22 *Edw.* 1. See my book of *Antiquities, pag.* 295, 296: infinite others there are, of this nature.

And in this notion it is always to be rendered in *Engliſh* by the word *Lord:* as, Lord of *Tabley*, Lord of *Knotsford*, and the like: and ſo it is often applyed at this day.

4. Now let us ſee the notion of *Dominus*, as it is expounded by our *Engliſh* word [*Sir*]: Some-

Sometimes the word *Dominus*, and *Sir*, is, in its general notion, applicable in common diſcourſe to all Perſons of Quality, from the higheſt to the loweſt, as hath been ſaid already: and ſo are both theſe words uſed at this day.

More particularly, the word *Dominus* in old Deeds was applicable to Perſons of great Quality, and to the better ſort of Gentlemen, about the raign of King *John* and *Henry* the third: I find it thus applyed in *anno* 16. *Hen.* 3. See in my Book of *Antiquities pag.* 133, *Ranulphus, Comes Ceſtriæ & Lincolniæ----Salutem: ad univerſitatis veſtræ notitiam volo pervenire, me dediſſe Dominæ Hawiſiæ de Quency Sorori meæ chariſſimæ, Comitatum Lincolniæ, &c:* Where it is to be expounded, the Lady *Hawys de Quency*: So alſo *ibidem, pag.* 152.---*Hæc eſt conventio facta inter Dominum Ranulfum, Comitem ceſtriæ & Lincolniæ---&c*: about 6 *Hen.* 3. Where it is is alſo to be expounded by our Engliſh word (*Sir*): and ſo we find it expounded in a French

Deed *de anno* 18 *Edw.* 1. 1290: --- *A Touts ceaux Felippe, que ſuit femme Monſieur Thomas de Dutton, Salute. Sachez moy aver graunte--- a toute ma Vie à mon cher Seigneur Sire Henri de Laſci, counte de Nicole & coneſtable de Ceſtre, Toute le droit & le cleyme que ie avoy--- en une Vechery que eſt appelle Chiploade en le Countèe de Ceſtre--- ai ces Teſmoines, Monſire Robert de Hertford, Sire James de Nevile, Sire Wautier Bek, Sire Nicol de Leyceſter, Sire Peres Mallorè chivaliers, William de Nunny, John de Lundre, & autres. Done à Lundres, 24 iour de Maij, 18 Edw.* 1. *l' an du regne le Roy Edward* 18. Where he is called *Sir Henry Lacy*, Earl of *Lincoln*: *Lib.* C. *fol.* 156. x. taken out of one of the great *Couchir*-Books in the *Dutchy*-Office at *Grays*-Inne, *London Tom.* 1. *Comitatus Ceſtriæ: num.* 13. *fol.* 43. *b.*

And it is not likely, that *Randle* Earl of *Cheſter*, and *Henry Lacy* Earl of *Lincoln*, had the Title of *Dominus* prefixed as Knights, becauſe they were Earls and ſupergraduated, the leſſer Titles being drowned in the greater

greater: howbeit I find that *Randle* Earl of *Cheſter* was Knighted *anno* 1188: but it ſeems to me, that it was the cuſtome of thoſe ages to call them Sir *Henry Lacy*, Earl of *Lincoln*, and the like: and ſo was many times given to the better Sort of Gentlemen under King *John*, and *Henry* the third, as you ſee it was to the Lady *Hawys*, though no Knights.

So likewiſe *Lib. c. fol.* 67. b.---*Anno Gratiæ* 1256, *die Veneris proximâ anté Natale Domini, circà horam diei primam, facta eſt hæc Conventio, inter Dominum Edmundum de Lacy ex unâ parte, & Dominum Willielmum Longeſpèe ex alterâ. Et, quià prælocutum fuerat in Vaſconiâ ſuper maritagio Henrici filij & hæredis dicti Edmundi, & Margaretæ filiæ & hæredis dicti Willielmi, dicto die ex conſenſu Partium completum eſt, &c:* And in the next deeds following *ibidem fol.* 67. c. *Univerſiis*----*Edmundus de Laſcy conſtabularius Ceſtriæ, Salutem, &c.* dated *anno Gratiæ* 1257. Where the ſame *Edmund* hath not ſo much as the word *Dominus* added; and therefore

no Knight: Nor is it a ſure rule in the Deeds of thoſe ages to be underſtood of a Knight, unleſs the word *miles* do follow: becauſe it was then uſually applyed to Clergy-men alſo, and ſometimes to the better ſort of Gentlemen, though no Knights; as well as to Knights: before the age of King *John*, *Knights* were not ſo common and frequent as ſince: For, *anno Domini* 1256, 40 *Hen.* 3, who ſo had fifteen pound *per annum* in lands, were called to be made Knights, or to be fined. *Mat. Paris.*

And from about this time downwards, the word *miles* ſeems to be added to the name of *Knights*, conſtantly.

5. So that the word *Dominus* was certainly applyed to Knights, and alſo the word *miles* often added, under *Henry* the Third: and our *Engliſh* word (*Sir*) was very anciently affixed to the Chriſtian Names of Knights: And in the Raign of *Edward* the firſt, was ſo much taken to be parcel of their names, ſaith *Selden* in his *Titles of Honour pa.* 939. as that the Jews then

then in *England* did in their Hebrew Inſtruments (called *Stars* obviouſly in the Records) write it *Sir*, without interpreting it by any word of their own: And we have a Precedent in Hebrew there ſet down by *Selden.*

That the Word *Dominus* was frequently applyed unto Knights under *Edward* the firſt, having the word *miles* alſo added is manifeſt out of my own Evidences: I. *num.* 5.——*Ego* M. W. *dedi Domino Nicolao de Leyceſter militi, terras in Wath* [*in York-ſhire*] 22 *Edw.* 1. Alſo I. *num.* 98. *Sub anno* 20. *Edw.* 1. Infinite other Examples occur elſewhere alſo; and then was *Domino* expounded by our Engliſh word *Sir*, 18 *Edw.* 1. as appears by the french Deed a little before tranſcribed: and ſo have they been applied ever ſince to this day: and in this Notion have expounded one another.

6. So alſo the word (*Sir*) hath been applied in *England* to Clergy-men very anciently: I find it clearly ſo from Kings *John's* time downwards to the raign of Queen *Elizabeth*, or King

James: which was alſo expreſſed in Latine by the word *Domino. Lib.* c. *fol.* 251. D. among the witneſſes thus----*Teſtibus, Domino Willielmo de Maſcy, Parſonâ de Bowden, Matheo de Hale,---&c:* This was in the time of *Henry* the third, about *anno Domini* 1250: many Examples of like nature occur in thoſe times: and ſometimes uſed without the word *Perſonâ* or *Rectore*, but moſt uſually with it: as, *Domino* A. B. *tunc Rectore Eccleſiæ de Mobberley*:

And the People commonly called their Pariſh-Prieſts by the appellation of Sir *William Maſſy*, Sir *Richard Comberbach*, and the like, in ordinary communication, as at this this day we call Knights for the moſt part: and the Title (*Sir*) was ſo applyed to Clergymen, till the times of Queen *Elizabeth*, and King *James*, in our County. For, after the reformation of Religion, it began by little and little to be omitted: It was given to Prieſts at the firſt, as it were in honour: becauſe of the great eſteem which the People had of them.

7. The

7. The words *Dominus*, and *Sir*, are at this day applyed to Batchlours of Art in our Univerſities: but this is only to their Sir-names: as, Sir *Blackburn*, Sir *Sanderſon*, and the like.

The word *Cyr (vulgò Syr) Spelman* in his Gloſſary, *pag.* 183, deriveth from the Greek κῦρ, as an abbreviation of the word κύριος: as *Don* and *Dom* from the latin word *Dominus*, frequent amongſt the Italians and Spaniards: and the letter *C.* (having the vowels of *e*, or *i* and *y* following) is pronounced by Engliſh men as the letter *S*: which appears in the words, *Certain*, *City*, *Circuit*, *Civil*, and the the like.

Others derive the word *Sir*, from the Hebrew word *Sar*, which Signifies a Ruler, a Lord, or Prince: an honourable appellation.

Some ſay, We have the word *Sir* from the French word (*Sire*) which anſwers to the Latin word *Pater*, or *genitor*: and ſo Engliſh-men at this day uſually call a Grand-father (*Grand-ſire*) and ſo much of the word *Dominus*.

4. To the fourth Queſtion. It doth

doth as well prove it in your Anceſtors, as it doth in the two *Duttons*: But it is not yet certain to me of either; for ſometimes they have *Domino* prefixed, and ſometimes not.

5. To the fifth Queſtion: I do not ſay, that the word *Dominus* doth only Signify *Maiſter*, But, it ſeems to me, it may be ſometimes ſo expounded where the Party is not certainly a *Knight*: and perhaps alſo it may be expounded ſometimes *Sir* (taken in the latitude of that word) and applyed to great Perſons, though no Knights: as Sir *Henry Lacy* Earl of *Lincoln*, and the like: And the word, *Domino*, may be given to ſome Perſons of better note in reſpect of their Quality, or in reſpect of their Office, and yet not to others, in the ſame Deed: which others, may be good Gentlemen alſo; but at that time perhaps not of ſo publique note as thoſe to whom it is ſo prefixed in the ſame Deed.

6. To the Sixth: I do not call all thoſe four Knights, nor yet two of them: for, *pag.* 226 of my *Antiquities*, I there call one, Sir *Geffrey* of

Bud-

Budworth, ſon of *Adam de Dutton*; but I do not call him Knight: and ſo *pag.* 223, I call another of them, Sir *Geffrey de Chedill*, but I do not call him Knight: for, as I ſaid immediately before, *Dominus* perhaps may be ſometimes ſo expounded, and ſometimes alſo, *Maiſter*: and perhaps here it may be rendered either way: and yet I muſt confeſſe, when I writ that book, I did not heed theſe ſmall niceties ſo acurately: and whether he were a Knight, or no, it is not much material.

What now followeth in your *Anſwer* to *Page* 49, is indeed little material, or what hath elſe been Anſwered by me formerly, in my other books over and over again.

Page 49, *of your* Anſwer *to my* Addenda.

Here now you come to *Bertred* again, *and* ſay, that you have heretofore proved her to be but 24 years of Age *anno* 1181: and now you find in the third part of Mr. *Dugdales Monaſticon*

naſticon Anglicanum, *pag.* 226, that *Hugh Cyveliok* and his mother *Maude* did give *Stivinghale*, vulgo *Stiſhall in com.* Stafford: to *Walter Durdent*, Biſhop of *Cheſter*, and his Succeſſours: to which Deed *Euſtace* the conſtable was witneſs.

Now the ſaid Earl *Hugh* being not in a capacity to Seal a Deed until he was one and twenty years of Age, and *Euſtace* being ſlain in a battel againſt the Welſh, *anno* 1157, the ſaid *Hugh* muſt needs be at the leaſt one and twenty years older then his wife *Bertred*: But it is likely, the Deed was made ſome years before, to wit, immediately upon the death of *Randle de Gernonijs*, his Father: For the ſaid *Randle* dyed excommunicate, and *Stivinghale* and thoſe other lands were given for his abſolution and the health of his Soul:

My Reply.

Here, you ground your Argument again upon a mere errour, miſtaking altogether the Law and Cuſtoms of thoſe

thoſe elder ages: For, you may ſee the very like precedent in my book of *Antiquities*, *pages* 114, 115: where you find *Richard*, Earl of *Cheſter* joyning with *Ermentrude* his Mother, in the Grant of *Wudmundeſlei*, to the Abbey and Church of *Abbington* in *Barkſhire*, *anno 6. Hen.* 1, *anno Domini* 1106, whiles he was yet ſcarce twelve years old.

Whereof the Book of *Abbington* immediately before the Deed there tranſcribed, ſaith thus, *fol.* 47,----

Ipſe comes benefactum extulit, & ſuo deſcripto roboravit: quod deſcriptum, Sigillo quidem matris Signari conſtitit: nondum enim militari Baltheo cinctus, materno Sigillo literæ quælibet ab eo directæ includebantur: hâc de re, quod eò annotatur, Comitiſſæ potiùs quàm Comitis Sigillo Signatur.

Selden, from theſe words obſerveth, that the Law being ſuch, that whoſoever was Knighted, though before the Age of one and twenty, he was eſteemed as of full Age in regard of any Wardſhip or other Tuition: and the

uſe

uſe being, that ſuch great Lords were often Knighted before they were of full Age, and this Earl *Richard* not having as yet received the honour of Knighthood, but being a Child and under the Tuition of his Mother, for that reaſon he uſed her Seal to this his Charter, and to other his Letters alſo: *Selden* in his *Titles of Honour*, pa. 786.

Thus you groſly miſtake all Antiquity, by your fragments of Law perpetually through all your books: For, Earl *Hugh* joyning here with *Maude* his mother in this Grant of *Stivinghale*, ſhows clearly that he was then but a Child, and under tuition of his Mother: For, when ſuch Lords were either at full Age, or ſo old as to have received the Honour of Knightood though before they were of full age, I believe you will ſcarcely find in thoſe ages, that either they uſed their Mother's ſeal, or that the Mother joyned with them in their Grants.

And therefore, ſuppoſing Earl *Hugh* to be about twelve years old when he joyned with *Maud* his Mother in the Grant

Grant of *Stivinghale*, at which age Earl *Richard* joyned with his Mother *Ermentrude* in the Grant of *Wudmundeſlei*; and that the grant of Earl *Hugh* was made *anno* 1157, then was Earl *Hugh* born *anno* 1145: but I will ſuppoſe the Grant made *anno* 1155 (& it could not be made much ſooner, for it muſt needs be after the death of his Father *Randle*) then was Earl *Hugh* born *Anno* 1143: and ſo he would be about Ten years old at the death of his Father: ſo that you have brought the ſtrongeſt Argument againſt your ſelf, that poſſibly could be in ſo dark a path againſt your moſt erroneous computation of *Hugh Cyveliok's* age: which you ſo much ſtood upon in your former books upon poor weak grounds, as I have formerly told you.

Page 50, 51, *Of your* Anſwer *to my* Addenda.

Here you come to another weak reaſon to prove the birth and age of *Hugh Cyviliok*: and ſay, that in the *errata* at the very end of *Powel's* notes, ſhowing

ſhowing how the Errors in Printing ſhould be corrected: *Pag.* 197, *line* 16; the Welſh-Hiſtory is miſ-printed in the ſaid Page, and ſhould have been Printed thus.---About the ſame time *Hugh* ſon to the Earl of *Cheſter*, fortifyed his Caſtle of *Cymaron*, & wonne *Melienyth* to himſelf.

Now, the time when this was done, we find there to be *anno* 1142: and you ſay, I will not deny but the Welſh-Hiſtory is of good Credit, becauſe I follow the ſame in my book of *Antiquities*: And *Powell* in his notes thereon tells us, that *Caradocus Lhancaruan* is reputed by all learned men to be the Author thereof to the year 1156: and that by the Authority of *Voſſius*, and *Iſaacſon*, the ſaid *Caradoc* was living when *Melienyth* was wonne.

So then, you compute, that ſuppoſing him, the ſaid *Hugh*, to be about twelve years old at the winning of *Melienyth*, *anno* 1142: and that he ſhould marry *Bertred* whiles ſhe was but 14 years old; then the marriage (ſay you) would fall in *anno* 1171:

yet

yet would *Hugh* be 41 years old when he married *Bertred*: and ſo by conſequence it is not likely that *Bertred* was his firſt wife, and then it is to be preſumed that he had a former wife, and that former wife muſt be mother of *Amicia*, and ſo *Amicia* muſt be a legitimate daughter: All which are but bare Suppoſitions:

My Reply.

Here is a fine Computation, and upon a ſure Ground no doubt: But let us examine the matter a little. I will firſt put down the words of the *Welſh* Hiſtory, as it is put out with *Powel*'s-notes, *Anno* 1584, *pag.* 197.——

About the ſame time [*ſcilicet*, *Anno* 1142] *Hugh*, Earl of *Cheſter* fortifyed his caſtle of *Cymaron*, and wan *Melienyth* to himſelf: and at that time, King *Stephen* took *Geffrey Mandevyle* Priſoner at Saint-*Albons*.

See here two groſſe Miſtakes in the Welſh-Hiſtory aforeſaid: firſt, *Hugh* Earl of *Cheſter* ſaid to take *Melienyth*, *Anno* 1142: when it is moſt

certain, there was no ſuch Earl of *Cheſter* at that time: for *Randle de Gernoniis* (Earl of *Cheſter*, and father of *Hugh*) dyed not till *anno* 1153, as is clearly proved in my book of *Antiquities pag.* 129: ſo that *Hugh*, Earl of *Cheſter*, is moſt certainly miſtaken here, for *Randle* Earl of *Cheſter*: and *Geffrey Mandevyle* is here alſo miſtaken for *William Mandevyle*; ſee *Matthew Paris*, *ſub anno* 1142, *pag.* 79.

But let us now ſee, how you would ſtretch this to ſerve your turn, and to be meant of *Hugh Cyveliok*: marry now, you turn us to the *Errata* at the end of *Powel*'s notes on the Welſh-Hiſtory aforeſaid: where, among other *Errata*'s to be amended, it is ſaid—— *Pag.* 197. *line.* 16. *Hugh*, Son to the Earl of *Cheſter*. An amendment certainly worſe than the Errour it ſelf: For *Randle de Gernoniis*, a man of great Valour, of an Active and turbulent Spirit, famous for exploits of warre, who about the ſame time, to wit, in *anno* 1141, took King *Stephen* Priſoner at the Battell of *Lin-*

Lincoln, was more likely in that year 1142 to be the Perſon employed in this Exploit here mentioned, than a child, who (I am very confident) was not yet born.

So that if you have no better proof than this for your Suppoſition; you can never hope for any Judicious man to believe what you here do ſay: nor can you certainly prove by any Hiſtorian of Credit, or by any Record, that *Hugh Cyveliok* was at this time born: nor can you make it to appear, that *Randle de Gernoniis* was married till about the year 1139, or 1140: Wherefore, it is certain, that *Hugh Cyveliok* had never any other wife but *Bertred*; and *Amicia* muſt by ſure conſequence be a Baſtard, being no daughter by *Bertred*: nay, the very Deed by you produced (& by me before-mentioned) of *Hugh's* Grant of *Stivinghale*, joyning therein with *Maud* his mother, being then a child and under Tuition of his Mother, clearly ſhows that he could neither be ſo old as you would now ſuppoſe him, nor yet that he was born *anno* 1142.

What you urge of my following of the Welſh-Hiſtory, and the credit I have thereof; I knew no better to follow, for the Welſh Kings: which yet I have fortified in ſome things with better proof: And as I believe it true in many things, ſo it hath alſo ſome groſſe miſtakes and errours; nor is it at all proved by good Authority, or exactly compoſed throughout; nor ſhall you therein from the beginnnig find all the Wifes, Children, and Baſtards, of the ancient Princes or Kings of *Wales* clearly recorded: and ſo are Dr. *Powell's* Notes thereon full of errours, and eſpecially in his abſurd Pedegree of the Earls of *Cheſter*, and in ſeveral other things.

Thus have I run through your *Anſwer* to my *Addenda:* and now I appeal to the ingenious Reader, whether in great deliberation I may not juſtly conclude the ſame from the beginning to the very ending, either ſtuffed with groſſe miſtakes, or impertinent Fragments of Law of later ages, (which are either miſtaken for

for the Law in the more ancient ages, or brought in upon falſe grounds, and nothing at all to the point, for which they are produced) or wild and weak Anſwers, or great diſingenuity in denying and palliating of plain Truths, or miſreporting of Authorities and miſtaking of them, to ſay nothing of your unjuſt Calumnies: All which will more clearly appear to the ingenious Reader in the diligent Peruſal of this Reply.

And I further appeal, Whether you have at all brought any one ſubſtantial Argument in all your books, that proves *Hugh Cyveliok* to have had a former wife; and which I have not fully and clearly anſwered in this or ſome other of my books: which not being proved, *Amicia* muſt certainly be a Baſtard: And if you will keep to this one Point, and meddle with nothing elſe, which is the main Queſtion between us, to wit, Whether *Hugh Cyveliok*, Earl of *Cheſter*, had a former wife before *Bertrede*? I will joyn iſſue with you in this very Point; though in ſtrictneſs you ought

alſo to prove *Amicia* to be daughter of that former wife, if there were any ſuch: I ſay, If you will publiſh any Arguments, briefly and Syllogiſtically, without running into any other Point to confound the matter, and prove your Propoſitions by good Authority fairly and briefly for the better apprehenſion of all Readers; I will undertake to give a full and clear *Anſwer* to every Particular, and prove all my Aſſertions by good Reaſon and Authority, to the ſatisfaction of all Learned Readers; And when we have ſo done, let us leave it to the whole world to Judge: otherwiſe there will never be an end.

* by reason or Authority.

Mobberley,
April. 14.
1674.

Your loving Coſin
and Servant,

P. L.

Sir *Thomas Manwaring's*

LAW-CASES

MISTAKEN:

OR THE

Ancient Law Miſ-Underſtood.

AND THE

New Law Miſ-Applyed.

Wherein is ſhewed, That all thoſe Parcels of Law, produced by Sir *Thomas Manwaring* Baronet, in all his Books, to avoid a BASTARDY, are all clearly Miſtaken by him: And were either no LAW in the Age of *GLANVIL*, or are altogether impertinent to the Point for which they are urged by him.

By Sir *Peter Leyceſter* Baronet.

LONDON,
Printed in the Year, M,DC,LXX,IV.

Epistola Dedicatoria.

Gravissimis Doctissimisque Viris, Universis Angliæ Justiciariis, Salutem.

Domini Venerabiles,

CUm nuper admodum de Bastardiâ Antiquâ *orta sit nugatoria valdè ac nullius momenti controversia, inter duos Sanguinis Propinquitate conjunctos, sed hâc in re diversi inter se judicij; Quorum unus (primus hujus controversiæ instigator, qui rectiùs forsan sibi consuluisset si tacuisset) appellavit legem, alteram ac Priorem investigandi causâ uxorem* Hugonis Cyvelioc, *olim Comitis Cestriæ; adeò ut hoc idem ex incertâ admodum*

dum legis normâ probare totis viribus nitatur: quod tamen nec ex Historiis, nec Archivis, diligentissimâ licèt indagine, uspiam constare possit. Hunc ego sanè eâdem sequi viâ non gravabor: Sicut enim Festus *Divo* Paulo *dixit,* καίσαρα ἐπικέκλησαι; ἐπὶ καίσαρα πορεύσῃ: *itidem ego; Appellavit legem? ad legem ibit: Quapropter hunc meum libellum in lucem dare, opportunum duxi, ut melius sciri possit Legis* Veteris *ac* novæ *status: Quem sanioribus vestris judicijs hîc exhibere mihi libuit:*

Nescio reverà, Doctissimi Gentis nostræ Senatores, Cui potius eundem darem & dedicarem, quàm vobis-ipsis, Qui legis nostræ estis Interpretes: Vos omnes itaquè obtestor,

An non, sæculo Glanvilli, *ex antiquâ lege nostrâ, dare terram in liberum maritagium cum Bastardâ filiâ suâ cuivis homini liceat; etiamsi, mutatâ lege, Donum in liberum maritagium cum Bastardâ lex hodiè non permittat?*

Sagacioribus vestris innitor judicijs: parum me legibus versatum profiteor: tantum scire legis mihi sufficit, quantum Privato homini Generoso necesse est:

eſt: Studia alia aliorſum me ducunt: Theologiam cæteris omnibus præfero, cujus ſtudium humano generi apprimè neceſſarium duco: Hiſtoria etiam me maximè delectat: Sed quò proficiſcor? Siſto gradum: & ad rem redeo:

Si in his erraverim, παλινῳδίαν ᾄδειν *paratus ſum: Sin autem non erraverim, ad veritatem contra aliorum Calumnias vindicandam, vos ſtrenuos mihi fore Patronos, ſpes eſt. Valete.*

Mobberleiæ
Calendas Maij,
1674.

Sir *Thomas Manwaring's*

Law-Cases Mistaken, &c.

I Shall in the first place rally together all those Peices of Law of later Ages produced by Sir *T. Manwaringe* and Misapplyed by him, in his three books lately Published to avoid the Bastardy of *Amicia*, under *Henry* the Second: which I have briefly collected together in the following Pages: and next to them, I have likewise put down in brief those Parcels of the Law in *Glanvil's* time, and those more ancient Ages, contrary to those produced by Sir *Thomas*: This done, I shall prove those Parcells of the Law of the more ancient Ages by good Authority, either out of *Glanvil's*

vil's own book *de Legibus Angliæ* (who was Chief-Justice of *England* under *Henry* the Second, and lived in the very Age with *Amicia*, and was the first since the *Norman*-Conquest who hath committed unto writing any thing touching our common Law of *England*) or else by clear Precedents of those times, or other good Authority; Shewing likewise the errours of what is said by Sir *Thomas* to the Contrary: And lastly, I shall cull out the other impertinent Parcels of Law in all his books, shewing how they are brought in upon false grounds, and altogether impertinent to the Point for which they are Produced.

Parcels of the Law of later Ages, Produced by Sir Thomas Manwaring, *and Misapplyed by him.*

1. *That*, Lands cannot passe *in libero maritagio* with a Bastard-daughter. *Cook* 'pon *Littleton. fol.* 21. *b.*

2. *That*, The woman in a Gift of *Frank*-marriage must be of the blood of the Donour, who is the cause of the Gift: *Cook* upon *Littleton, fol.* 21. *b.* See the defence of *Amicia, pag.* 40: and also Sir *Thomas* his Reply to my Answer *pag.* 44, a Bastard is not *de Sanguine Patris.* Dyer, *fol.* 374. *b.*

3. *That*, the words [*in liberum maritagium*] are words of Art, and cannot be expressed by words equipollent; and so are necessarily required in a Gift of *Frank* marriage: and, because those words do create an estate of inheritance against the general Rule of Law, therefore they must be punctually pursued: *Liberum* without *maritagium*,

ritagium, or *Maritagium* without *Liberum*, not good, *Cook* upon *Littleton* fol. 21. b. also the Reply of Sir. *Thomas* to my Answer, pa. 55, 56, 57.

4. *That*, If a man give Land with his Daughter *in Connubio Soluto ab omni Servitio, &c.* yet, in this Case, here passeth but an Estate for Life. *Cook*, ibid fol. 21. b.

5. *That*, Lands given *in libero Conjugio* are but words like *in Connubio soluto ab omni Servitio*, and so make but an estate for Life: Sir. *Thomas Manwaring*'s own words in his *Defence of Amicia* pa. 48. the Lord *Cook* saith no such thing.

6. That, *Glanvil* doth not say, that Lands might be given with any woman *in liberum maritagium*; but only, *in maritagium:* Sir *Thomas* his own words in his Answer to my *Addenda*, *pag.* 31. And in his Reply to my Answer *pag.* 39, 40.

7. That *Hugh Cyveliok*, Earl of *Chester*, could not be in a Capacity to Seal a Deed till he was one and Twenty years of Age: Sir *Thomas* in his Answer to my *Addenda pag.* 49.

Parcels

Parcells of the Law in Glanvil's *time, and thoſe more ancient Ages, contrary to thoſe Produced by Sir* Thomas.

1. *That*, Lands did and might paſſe, in thoſe ages, *in libero maritagio* with Baſtard-daughters.

2. *That*, Gifts in *Frank*-marriage of thoſe more ancient Ages, were not tyed up only to thoſe of the Blood: And that Baſtards in thoſe times were reputed of the blood.

That, Though the words [*in liberum maritagium*] by the Law in later ages were required as a Term of Art, & legally to be purſued in all Grants of *Frank*-marriage; yet in the more ancient ages they were not by Law ſo ſtrictly required.

4. *That*, In thoſe more ancient Ages, Lands given with a daughter *in maritagio, Soluto ab omni Servitio*, &c. was good, and would paſſe an eſtate of Inheritance: And therefore, *in connubio, ſoluto ab omni Ser-*

vitio, &c. would have been then good alſo.

5. *That*, The words [*in libero Conjugio*] in thoſe more ancient ages was as good as [*in libero maritagio*]: and, Lands did in thoſe ages paſſe by vertue of thoſe words accordingly.

6. That *Glanvil* doth ſay, that, Lands might be given with any woman *in liberum maritagium lib.* 7. *ca.* 18. and that *in maritagium* in thoſe ages was all one, and often underſtood for the ſame thing with, *liberum maritagium*, where the Deed in marriage did acquit the Land from all Service towards the chief Lord, *à ſe & hæredibus ſuis.*

7. *That*, Earls and great Lords in thoſe former ages did often joyn with their mothers (who then had the Tuition of them) in Deeds and Charters, whiles they were very young, and long before they attained the age of one and twenty years, but uſed then their Mother's Seal to ſuch Deeds under whoſe Tuition they were, and not their own.

And

AND now I will prove out of *Glanvil* (who was chief Justice of *England* under *Henry* the Second) as also by clear Precedents of those Ages, all those Parcells of Law of the more ancient Ages before-mentioned, and shew the Errours and Mistakes of what is said by Sir *Thomas Manwaring* to the Contrary. So that his Ground-work failing, all the whole Fabrick erected by him in defence of *Amicia* must needs fall.

1. For the First: That Lands did and might passe in those more ancient Ages *in libero maritagio* with Bastard-daughters;

Take here the words of *Glanvil* (who dyed *Anno Domini* 1190) lib. 7. ca. 1. *In aliâ acceptione accipitur Dos secundum leges Romanas: Secundum quas propriè appellatur Dos, id quod cum muliere datur viro: quod vulgariter dicitur Maritagium: Potest itaquè quilibet liber homo, terram habens, quandam partem terræ suæ cum filiâ suâ, vel cum aliquâ aliâ quâlibet*

muliere, dare in maritagium, ſive habuerit hæredem ſivè non, velit hæres vel non, imò & eo contradicente.

Alſo, *lib. 7. ca. 18. Maritagium, autem aliud nominatur liberum, aliud Servitio obnoxium: liberum dicitur maritagium, quando aliquis liber homo aliquam partem terræ ſuæ dat cum aliquâ muliere alicui in maritagium, itâ quod ab omni Servitio terra illa ſit quieta, & a ſe & hæredibus ſuis, verſus capitalem Dominum acquietanda: & in hâc quidem libertate ita ſtabit terra illa uſque ad tertium hæredem: nec interim tenebuntur hæredes inde facere aliquod homagium: Poſt tertium verò hæredem, ad debitum Servitium terra ipſa revertetur; & homagium indè capietur. Quia, ſi fuerit pars feodi militaris, pro quantitate terræ Servitium feodi inde preſtabit.*

Solet autem quandòque terra aliqua dari in maritagio, Salvo & retento debito Servitio ipſi Capitali Domino: & tunc quidem tenebuntur maritus mulieris

teris ipſius, & hæredes ſui, Servitium id facere, ſed ſine homagio uſque ad tertium hæredem:

With whom alſo agreeth *Bracton, lib. 2. ca. 7.* (who lived in the raign of King *Henry* the *third.*) *Et eſt maritagium aliquando liberum, Scilicet ab omni Servitio quietum; & aliquando Servitio obligatum: liberum autem maritagium dicitur, ubi Donator vult quod terra, Sic data, quieta ſit & libera ab omni Sæculari Servitio, quod ad Dominum feodi poſſit pertinere, & ita quòd ille, cui ſic data fuerit, nullum omninò faciat indè Servitium uſquè ad tertium hæredem.*

So then, the Law was clear in *Glanvil's* time, that any man might give part of his Land to any other in marriage with his daughter, or with any other woman whomſoever: And if with any other woman whomſoever, then certainly with a Baſtard-daughter: for the words are general, without any reſtraint at all: and there he tells us alſo, that Lands given in marriage, ſo as they be acquitted from all Service towards the chief Lord, ſuch are

grants in Free-marriage: and when the ſervice due to the chief Lord was excepted, then the Heirs were bound to doe the Service, but without homage, to the third heir: wherefore in thoſe more ancient ages Lands did paſſe according to Law, with Baſtards in Free-marriage:

Again, *Bracton lib. 2. ca. 7.* ſaith, *Quoniam terra data Baſtardo in maritagium, ſicut & aliis, vel Baſtardo per ſe, in ſe tacitam habet conditionem vel expreſſam de reverſione----&c.*

So that, if lands might then be given to a Baſtard-Son in marriage with any Woman (as Sir *Thomas Manwaringe* confeſſeth in his defence of *Amicia, pag.* 35.) why not then to any man with a Baſtard-Daughter in marriage?

Sir *Thomas* hereunto anſwereth in the place alledged, that though *Bracton* ſaith, that lands may be given *Baſtardo in maritagium cum aliquâ muliere*; yet, he hath not a word at all, that lands may be given to a man *cum Baſtardâ*: whereas in this caſe of *Frank*-marriage, the Party *with whom* the

the Land is given, not the Party *to whom* the land is given, is the Principal thing that is considerable herein.

Which Answer is very superficial and insufficient: For neither the Party to whom, nor the Party with whom, is herein Principally considerable, but the Party who is the Principal cause of the Donation: For whether Bastards in that Age were capable of Gifts in *Frank*-marriage, is now the Question: whether to a Bastard, or with a Bastard, it matters not; that is the same thing: he must give a better reason to those words of *Bracton*, or it cannot be Satisfactory; for if the Law did not then allow Bastards to be capable of gifts in *Frank*-marriage, how is it that *Bracton* saith a Bastard-Son may have lands given unto him in *Frank*-marriage? and if a Bastard-son be capable of such a gift, why not a Bastard-daughter? And though *Bracton* mentioneth the one, yet he excludes not the other: and *ubi lex non distinguit, neque nos distinguimus*: how the Law could al-

low the one to be good, and not the other, I cannot yet apprehend.

For the Answers of Sir *Thomas*, how he would have the words in *Glanvil* [*cum aliquâ aliâ quâlibet muliere*] to be restrained only to those of the Donor's blood, I shall speak of them, when I come to the Second Point of the Ancient Law.

And in the mean time, I will shew some Precedents, clearly proving that lands did usually passe in those more ancient ages in Free-marriage with Bastard-daughters: and thereby infallibly demonstrating both the Law and Practice of those times.

1. In the first place; See one in my book of *Antiquities*, *pag.* 112, 113: where *Drayton* was given to *Geva*, (base daughter of *Hugh Lupus*, but in the Deed styled only daughter of Earl *Hugh*) by *Randle de Gernoniis* Earl of *Chester* in Free-marriage, as Earl *Hugh* gave and granted the same to her in Free-marriage: This Deed of *Randle* was made towards the end of King *Henry* the *first*:

Concerning which, Sir *Thomas Man-*

Manwaringe ſaith, in his Anſwer to my Addenda *pag.* 2. he cannot but ſmile that I ſay, the gift to *Geva* was ſuch a Precedent, conſidering how in his Defence of *Amicia*, *pag.* 43, 44, and ſo onwards; and alſo in his *Reply* to my *Anſwer*, *pag.* 23, and *pag.* 45, 46, and ſo onwards to the 60 page; he hath made it to appear, that it is very uncertain that the ſaid *Geva* was a Baſtard, but moſt certain that the Gift to *Geva* was not a Gift in *Frank*-marriage.

I wonder at his confidence: for I have proved her a Baſtard by ſure conſequence out of *Ordericus*, a man that lived in that very Age with *Geva*: & nothing at all proved by Sir *Thomas* to the contrary, material to that point: for which I muſt refer the Reader to my Anſwer unto his *Defence* of *Amicia*, *pag.* 33 to *pag.* 41.

But let us ſee, how Sir *Thomas* would prove the Gift to *Geva* in Free-marriage, to be no gift in Free-marriage: I ſuppoſe, he means, that it is not a good Deed in Law: for otherwiſe he would be like the Gentleman who

who would dispute about a Crosse, but the Question must be---whether that Crosse was a Crosse, or no Crosse: For the very words of the grant are, *in libero Conjugio*, that is, in Free-marriage.

The reasons he gives in his *Reply* to my *Answer*, *pag.* 57, and in his *defence* of *Amicia pag.* 49, are these: 1. That the words *in libero Conjugio* make but an Estate for life, because the Lord *Cook* saith, that the words *in liberum maritagium* are such words of Art, as cannot be expressed by words equipollent.

2. The Deed to *Geva* did intend no more then an Estate for life, it running all along in the Singular number, [*& teneat benè & in pace*---&c.] and there being no mention of her heirs.

3. The Deed to *Geva* is made to her alone, and not to a Husband with her: whereas the Lord *Cook* saith, that one thing incident to Frank-marriage is that it be given for consideration of marriage, either to a man with a woman, or (as some have held) to a Woman with a man: 4. That

4. That the Donees [by the ancient Law] were to hold freely of the Donor to the fourth degree: and that here, there are no Donees, but one Donee.

To the Firſt; he is horribly out, to ſay that the words *in libero Conjugio* in the grant to *Geva* made but an eſtate for life: when we ſee *de facto* that the Town of *Drayton* did paſſe to the heirs of *Geva* by that Deed, and in thoſe very words: whoſe heirs [the *Baſſets*] enjoyed the ſame: and it is apparent, that from the *Baſſets* ſometime Lords thereof, it gained the name of *Drayton-Baſſet* for diſtinction, as even at this day it is called. And it is abſurd for any man to ſay, that the Gift to *Geva* was not a Gift in Free-marriage: for thus it runnes, if we render it in Engliſh,---*Randle* Earl of *Cheſter*, to *William* the Conſtable, and *Robert* the Steward,---*&c.* Greeting: Know yee, that I have given and granted unto *Geva Riddle*, daughter of Earl *Hugh*, *Drayton* with the appurtenances in Free marriage, even as Earl *Hugh* gave and granted the ſame

ſame to her in Free-marriage: &c. &c. See the Deeds at large in my *Antiquities* of *Cheſhire*, *pag.* 112, 113. And to ſay, this is not a Gift in Free-marriage, is to ſay, that a Gift in Free-marriage is not a Gift in Free-marriage; which is very abſurd: and to ſay, it is not a good Deed in Law, becauſe the words are not *in libero maritagio*, whereunto (the Lord *Cook* ſaith) no other words can be equipolent; I Anſwer, the Lord *Cook* ſpeaks as the Law ſtood in his time and in late ages: which is falſe, if we underſtand it of the more ancient Ages, as is very evident by this grant to *Geva*: See more hereof in the Third Point of the ancient Law.

To the Second: The words (*Frank*-marriage) create an eſtate of inheritance in themſelves by Law, although it be not expreſly ſaid in the Gift to the Donees and their heirs, *Littleton*, *Sect.* 17: and therefore the words *in libero Conjugio* did convey the inheritance here unto *Geva* by Law: and ſo needed not to expreſſe the word [*heirs*] in the Grant: wherefore you doe

do not ſay right, that the Deed to *Geva* did intend no more then an Eſtate for life.

To the Third. It hinders nothing, though the Gift be made to *Geva* alone, and in the Singular number. But ſay you, how can there be a Gift in Free-marriage, if there be no marriage at all? and how can there be a marriage, if the man or Woman be alone? It is true, that there can be no marriage if the man or Woman never were married, nor ever ſhould marry: yet there may be a Gift in Free-marriage to one Perſon alone, as you ſee here was ſuch a Gift to *Geva*, who had been or was now again married: and this Gift was good, and did convey the lands to her heirs: And *Bracton* ſaith, *lib. 2. ca. 7. Part 3, Et Sciendum, quòd terra datur aliquandò ante ſponſalia & propter nuptias, à patre mulieris vel alio parente, ipſi marito cum muliere aliquâ vel utrique ſimul, ſcilicèt tali viro & uxori ſuæ (quod idem eſt) & eorum hæredibus, vel alicui mulieri ad ſe maritandam*, &c. And preſently after: *ſit enim talis*

lis Donatio antè matrimonium contractum, aliquandò in ipso contractu, aliquandò post contractum. How will you conster here *alicui mulieri ad se maritandam*, if lands in this nature may not be granted to one Person alone? The law was not so curiously woven in these ancient ages, as in the Lord *Cook's* time: and I have a copy of a Deed made about the raign of King *John*, wherein *Saher de Queney* Earl of *Wincheſter* gave to *Robert de Quency* his son and heir, *ad dandum in liberum Dotarium Hawiſiæ ſorori Comitis Ceſtriæ, uxori ejuſdem Roberti, Bucebebeiam, & Granteſſet, & Bradeham, & Herdewich--- pro centum libratis Terræ*, &c. *lib. C. fol. 65. T.* taken out of one of the Couchir-books in the Dutchy-Office at *Grayes*-Inn *London. Tom.* 2. *Honor* five *Soca* de *Bolingbroke: num.* 26. *pag.* 508.

To the Fourth: The heirs of the Donee, being included in the Grant, are all Donees in Law: and by the ancient Law were to hold freely of the chief Lord unto the fourth degree.

2. A Second Precedent see in the *Addenda*

Addenda to my Answer *pag.* 3. where we may see that King *John* gave the Mannour of *Ellesmere* in *Shropshire* unto *Lewellin*, Prince of North-*Wales*, in Free-marriage with *Joan* his base-daughter, about the Sixth year of the raign of the said King: 1204.

To this, Sir *Thomas* saith, in his *Answer* to my *Addenda*, *pag.* 7, that the Authors produced by me, do say that *Ellesmere* was given *in maritagio*, but do not say *in libero maritagio*: and that Lands may be given to one not of the blood *in maritagio*, but cannot be given in *Free-marriage* but with one that is of the whole blood.

But this distinction is grounded by him from a law of later ages, and not from the Law as it stood in *Glanvil's* time; as anon, when I come to this point, shall more fully appear: For in *Glanvil's* time, there was no such Distinction; *maritagium aliud est liberum*, *aliud Servitio obnoxium*: marriage is the *Genus*: if lands were given in marriage, acquit from all Service towards the chief Lord, then was it called Free-marriage, and the heirs were not bound to do homage,

to

to the third Degree: But if it had the Services reſerved due to the chief Lord, then the heirs were bound to do the Service, but without homage to the third heir; and then it was eſteemed not Free: *Glanvil, lib. 7. cap. 18.* and then we find no other Diſtinction of marriage, but *Free*, and *not-Free*: and the inheritance might paſſe either way: and *Maritagio* in general was often uſed for *libero maritagio* by ancient Hiſtorians, and ſo underſtood by them: and ſo it was alſo in old Deeds of thoſe Ages, when the lands therein given were acquitted from all Service, towards the chief Lord, as both *Glanvil* and *Bracton* do manifeſt: if the words were *in libero maritagio*, or *in libero Conjugio*, then it was as good, as to have ſaid *in maritagio* [illegible] *Conjugio*; *tenendum libere & quiete, ab omni Servitio, à ſe & hæredibus ſuis, verſus capitalem Dominum*: But if the Grant were *in maritagio*, *Tenendum liberè & quietè ab omni Servitio, & à ſe & hæredibus ſuis, verſus capitalem Dominum*; then was it the ſame, as

if

if it had been ſaid *in libero maritagio*; as we ſee plainly by the words of *Glanvil:* Wherefore the diſtinction of *maritagium* and *liberum maritagium* is here frivolous and not material: nor in *Glanvil's* time do we find any ſuch diſtinction [of the blood, and not of the blood] as he would have, through all his book.

Sir *Thomas* alſo denieth *Joan* the wife of *Lewellin* to be baſe daughter of King *John* contrary to the Stream of moſt of our Hiſtorians: & would have King *John* to have three daughters called *Joan:* but doth not, nor cannot prove a third *Joan* at all: See my *Reply* pag. 24, 25. and herein I will joyn iſſue with him.

3. Another Precedent ſee in my book of *Antiquities*, *pag.* 152, mentioned alſo in the *Addenda* to my Anſwer *pag.* 3, 4: where the Mannour of *Budiford* in *Warwick*-ſhire, and the Mannour of *Suttehal* in *Worceſter*-ſhire, were alſo given to *Lewellin* Prince of *North*-Wales in Free marriage with the ſaid *Joan:* this appears by the grant of the ſaid *Lewellin* to *John* the Scot (afterwards Earl of *Cheſter*)

ſter) of the ſaid Mannours *in libero maritagio* with *Hellen* his daughter, *cum omnibus Pertinentiis, ſicut Dominus Johannes Rex ea illi dedit in libero maritagio:*

Two Poor ſhifts Sir *Thomas* makes to avoid this Precedent, in his Anſwer to my *Addenda:* the firſt, *pag.* 8, that it is not ſaid here in the deed---- *Sicut Dominus Johannes Rex ea illi dedit in libero maritagio* [*cum filiâ ſuâ Baſtardâ*, nor yet *cum filiâ ſuâ.*]

2. The Second, pag. 10, that becauſe ſeveral Hiſtorians do tell us, that King *John* gave *Elleſmere* to the ſaid *Lewellin* with his daughter *Joan*; yet none of them do ſay, that theſe Mannours of *Budiford* and *Suttehal*, or either of them, were given with the ſaid *Joan.*

To the firſt; This is only a meer Cavill; for the words *cum Johannâ filiâ ſuâ* are by common intendment ſo to be underſtood, and are as ſtrongly here implyed, as if they had been expreſſed in the Deed: becauſe *Lewellin* never married any other daughter of King *John*, ſave only the ſaid *Joan*,

Joan: whereby he might have theſe lands in Free-marriage given to him by King *John* with any other: either other daughter, or other kinſwoman of King *John*. For to prove this, will be a ſtout Task.

To the Second; Thoſe Authors which mention *Elleſmere*, might not know of theſe other lands which were alſo given in Free-marriage, namely *Budiford* and *Suttehall*: which yet clearly appears in the Deed of *Lewellin* to *John* the Scot; ſee the Deed at large in my Hiſtorical *Antiquities*, pag. 152. Or if they did know it, and had no occaſion to mention them; yet it is manifeſt by the Deed: ſo that the Reader may eaſily ſee what weak Anſwers are given by him. And here by the way, we may take notice that the words *in maritagio* in the writ of Livery aforeſaid, & *in libero maritagio* in this Deed, are both uſed to ſignify the ſame thing: and ſheweth the diſtinction of *maritagium* and *liberum mæritagium* aforeſaid to be frivolous as to his purpoſe:

4. A fourth Precedent ſee in my *Addenda*, *pag.* 45. where the ſaid

Joan afterwards marrying *Robert de Audley* 14 *Hen.* 3; had lands also in *Shephey* then given her by King *Henry* the third.

To this Sir *Thomas* in his *Answer* to my *Addenda*, *pag.* 16, 17. saith, that this *Joan* was not the same *Joan* who was wife to *Lewellin*: but proves it not: Let the record of *Claus.* 14 *Hen* 3, (as it is vouched by *Vincent*) be the Judg: And for his Objection, that the said *Joan* must then have two Husbands living at one time, because *Lewellin* dyed not till the year 1240, 24 *Hen.* 3. I have formerly in my *Addenda* given some Probability by Circumstances, vouched out of *Mathew Paris* and *Knighton*, that she was divorced from *Lewellin:* and great Persons usually married again after a divorce in those ages, as we find a Precedent of *Randle* Earl of *Chester* and *Constance* his first wife, in my book of *Antiquities*, *pag.* 144, and 146; where both parties married again after their divorce, and in the life-time of each other: and if the said *Joan* married *Robert Audley*, *Anno* 14 *Hen.* 3, then is it a sure Argument that she

was

was divorced from *Lewellin*: & whether ſhe were ſo remarried, or no, let the Authority of *Vincent* (from whom I have it) and the Record he voucheth, *clauſ.* 14 *Hen.* 3. bear him out therein, by which he muſt either ſtand or fall.

2. *The Second point of the Ancient Law*:

That, Gifts in *Frank*-marriage of thoſe more ancient Ages, were not tyed up only to thoſe of the blood: and that Baſtards in thoſe times were reputed of the Blood.

This appears by the words of *Glanvil* aforeſaid, *ſuprâ pag.* 77, 78. Where he tells us, that lands may be given in Free-marriage with any woman whomſoever, without exception: and if the Law had then reſtrained ſuch gifts to thoſe of the blood, then ſurely he would have ſaid [with any woman of the Donours blood]: but we find not any thing in *Glanvill*, that doth ſo limit the ſame.

And *Bracton* ſaith, *lib.* 2. *ca.* 7. *Quia frater Baſtardus omninò extraneus eſt ei quoad Succeſſionem, licet*

non quoad Sanguinem: Wherefore a Baſtard was reputed of the blood in his time, though he could not Succeed: So that, Gifts of *Frank*-marriage to be tyed up to the blood of the Donour, muſt be fetched from ſome Author of later ſtanding than *Bracton*, and all thoſe ſo produced by Sir *Thomas*, are out of dores, to prove the Law to be ſo in the Age of *Glanvill.*

3. *The Third Point.*

That, though the words *in liberum maritagium* by the Law in later ages were required as a Term of Art, and punctually to be purſued in all grants of *Frank*-marriage; yet in the more ancient Ages they were not by Law ſo ſtrictly required. This is clear out of *Glanvill*, lib. 7. *ca.* 18. where he tells us, that a Grant of land with any woman *in maritagio, Habendum prædictam terram ſibi & hæredibus liberam & quietam ab omni Servitio, à ſe & hæredibus ſuis, verſus Capitalem Dominum*; This was a good grant *in libero maritagio*, and was as good as if the words had been *in libero maritagio*:

gio: and therefore the words of my Lord *Cook* touching *liberum maritagium* reach not the Age of *Glanvil*, ſo as always then to be tyed up to thoſe very words and no other.

4. *And therefore the Fourth Point:* That, lands given with a daughter *in maritagio ſoluto ab omni Servitio, &c:* in thoſe more ancient ages was good, and would paſſe an eſtate of inheritance: and by Conſequence *in Connubio ſoluto ab omni Servitio* would then have paſſed an Eſtate of inheritance alſo; contrary to what my Lord *Cook* ſaith, That lands given *in Connubio ſoluto ab omni Servitio* make now but an eſtate for life: which is the law of a later Stamp, and will not reach the Age of *Glanvill*: For in thoſe Ages a grant *in maritagio* (though obnoxious to Service) conveyed an eſtate of inheritance, as well as a grant in Free-marriage: the only difference was by the words of the Grant: when the land was given in marriage free from all Service, then it was called Free-marriage: and when

Services were required, then it was not in Free-marriage: yet the inheritance might passe either way, if it were granted hereditarily.

5. *The Fifth point:*

That, the words *in libero Conjugio* in those more ancient ages was as good as *in libero maritagio*: and lands did in those Ages passe by vertue of those words accordingly. This appears by the precedent of *Geva* before mentioned: by which Deed an estate of inheritance passed to her heirs by those words *in libero Conjugio*: See the Deed in my book of *Antiquities, pag.* 112, 113. and therefore Sir *Thomas* is horribly out to say, that the words *in libero Conjugio* did convey but an estate for life only: *vide pag.* 15. *suprà.*

So also we find the word (*in liberum Dotarium.*) [*Dos* is called *maritagium* in Domes-day-book: *Cook* on *Littleton, fol.* 31. also *Glanvill lib.* 7. *cap.* 1.] used in the raign of King *John*, as being the same with (*in liberum maritagium*) in a Deed in the *Couchir-*

book

book of the Dutchy-Office in *Grays-Inne* at *London*, *Tom. 2. Honor*, ſive *Soca*, *de Bolingbroke. num. 26. pag.* 508. in theſe words—

Saherus de Quency, comes Wintoniæ, Omnibus hominibus & amicis ſuis, præſentibus & futuris, Salutem. Sciatis me conceſſiſſe & dediſſe, & præſenti chartâ meâ confirmaſſe Roberto de Quency filio meo & hæredi, ad dandum in liberum (Dotarium) Hawiſiæ ſorori Comitis Ceſtriæ, uxori ejuſdem Roberti, Bucehebeiam, & Granteſſet, & Bradeham, & Herdewich, cum omnibus earundem terrarum pertinentiis, pro centum libratis terræ:——&c. See the Deed at large in my book of Hiſtoricall *Antiquities*, pag. 133: but there it is misprinted, *Donarium*, for *Dotarium.*

6. *The Sixth Point*;

That, *Glanvill* doth ſay, that lands might be given with any woman *in libero maritagio*, *lib. 7. ca.* 18. and that *in maritagio* in thoſe ages was all one, and often underſtood for the ſame thing with *libero maritagio*, where the Deed in marriage did acquit

quite the land from all Service towards the chief Lord, *à ſe & hæredibus ſuis.* To this Sir *Thomas* ſaith, in his *Anſwer* to my *Addenda pag.* 31, that Mr. *Glanvill* did not ſay, that, Lands might be given with any woman *in liberum maritagium*, but only *in maritagium.*

Glanvill there ſaith, that a man may give land with any woman in marriage, ſo that it be acquit from all Service *à ſe & hæredibus ſuis, verſus capitalem Dominum.*

But land ſo given (ſaith *Glanvill*) *eſt liberum maritagium.*

Ergo, Glanvill ſaith, Lands may be given with any woman *in liberum maritagium.*

7. *The Seventh Point*;

That, Earls and great Lords in thoſe former Ages did often joyn with their Mothers (who had the Tuition of them) in Deeds and Charters, whiles they were very young, and before they attained the age of one and twenty years.

This appears by the Precedent of *Richard*

Richard Earl of *Cheſter* in my book of *Antiquities*, *pag.* 114, 115: where he joyned with his mother in the Grant of *Wudmundeſley* to the Church of *Abbington* nigh *Oxford*, whiles he was yet but twelve years old: concerning which Grant the book of *Abbington*, *fol.* 147 ſaith thus —— *Ipſe Comes benefactum extulit, & ſuo deſcripto roboravit: quod deſcriptum Sigillo quidem matris Signari conſtitit: nondum enim militari baltheo cinctus, materno Sigillo literæ quælibet ab eo directæ includebantur: hâc de re quod eò annotatur, Comitiſſæ potius quam Comitis Sigillo ſignatur.* Upon which words of the Monk of *Abbington*, *Selden* obſerves in his *Titles of Honour*, *pag.* 786, that whoſoever was Knighted (though before the Age of one and twenty) he was eſteemed as of full age inregard of Wardſhip or other Tuition: and the uſe being, that ſuch Great Lords were often Knighted before they were of full age: now this Earl not having as yet received the honour of Knighthood, but being a child and under the Tuition

Tuition of his Mother, for that reaſon uſed her Seal rather than his own, and to other his letters alſo.

Sir *Thomas Manwaring* ſaith in his *Anſwer* to my *Addenda*, *pag.* 49, that *Hugh Cyveliok*, Earl of *Cheſter*, joyning with his mother *Maud* in the grant of *Stivinghale*, as we find it in *Monaſticon Anglicanum*, the third part, *pag.* 226, was not in a capacity to Seal a Deed till he was one and twenty years of Age.

Let the Reader chooſe now whether he will believe Sir *Thomas*, or ancient Precedents, whereof that of *Richard* Earl of *Cheſter* is by me before mentioned, and *Selden's* opinion thereof: for Earl *Hugh*, joyning here with *Maud* his mother in the Grant, ſhows clearly that he was but a child as this time and under the tuition of his Mother: and according to the manner of thoſe ages joyned in the grant with his Mother before he attained the age of one and twenty years: howbeit we have now no ſuch Cuſtome allowed at this day: ſee more in my *Reply*, *pag.* ~~35.87~~ 88.

So

So that all those Cases of our modern Law produced by Sir *Thomas Manwaring*, will not reach the Age of *Amicia*, nor advantage her cause one jot, nor prove the Age of *Hugh Cyveliok* to be near what Sir *Thomas* would have it to be, but rather the contrary.

And now I come to the impertinent Cases of Law, as they be vouched by Sir *Thomas*, which are nothing at all to the Point for which they are produced.

1. One we have in his *Answer* to my *Addenda*, *pag.* 13, 14, 15: that, when lands are given with a woman in *Frank*-marriage (who is the cause of the Gift) the Husband hath not the inheritance of such lands, nor so much as an estate for life therein, unless he be Tenant by the curtesy of *England*: for which he citeth *Cook* upon *Littleton fol.* 22. *a. Fleta. lib.* 3. *ca.* 11. *Bracton lib.* 2. *ca.* 11. and *Glanvil, lib.* 7. *ca.* 18: *ergo*, *Hellen* must be heir by a former wife.

I grant all the cotations; but he runneth on a false Ground: for he sup-

ſuppoſeth *Hellen* to be daughter of *Lewellin* Prince of North-*Wales* by a former wife, which I utterly deny: for, that he neither doth prove, nor can prove: I affirm, *Hellen* to be daughter of *Lewellin* by *Joan* baſe-daughter of King *John*: and ſo the ſaid *Joan*, being the cauſe of the Gift, thoſe lands might lawfully paſſe to *Hellen* in Free-marriage according to the Opinion of the Lawyers by him cited: And ſo his Law-Caſe (which is impertinently here urged) is totally out of *dores*: It is, as if I ſhould have ſaid, that it is 20 miles from *Saint-Albans* to *London*, but he will prove it to be 160 miles between *London* and *York*. I have alſo proved *Hellen* to be the daughter of the ſaid *Joan* in my *Reply* to his *Anſwer*, *pag.* 29. ſee alſo *pag.* 38, 39, of my *Reply*.

2. Another impertinent Parcel of Law we have in Sir *Thomas* his *Defence of Amicia*, *pag.* 59. quoting *Fleta*, *lib.* 6. *ca.* 39. *Sect.* 14. *Si autem Poſt mortem alicujus apponatur Baſtardia, non allocatur: cum defunctus ad talem exceptionem reſpondere non poterit:*

terit: Now if a Baſtard cannot be proved a Baſtard immediately after his death, becauſe he cannot anſwer for himſelf; what reaſon is there to charge *Amicia* with Baſtardy ſo many hundred years after her deceaſe.

See the wild impertinency herein: Becauſe a man ſhall not be allowed in a Court to prove a Baſtardy after the death of any Perſon to the outing of his heir, becauſe ſuch perſon cannot anſwer to the exception when he is dead; therefore no man in writing a Hiſtory ought to call any man a Baſtard after his death, though he hath been ſo called from time to time by ſeveral Hiſtorians, or though the ſame be certainly proved either by Hiſtory or Record: is not this Peece of Law well urged to the Point?

3. A number of other impertinent Peeces of Law we find in his *Defence* of *Amicia*, from *pag.* 34 to *pag.* 41. Unto all which, it were a good general Anſwer (were none of them at all impertinently urged) that, Whatſoever is alledged for Law by any Lawyer of late ages, doth not at all prove the ſame

ſame to be the Law in the Ages of *Glanvil* and *Bracton*, two of the moſt ancient Authors of our Law ſince the *Norman* Conqueſt, unleſs the ſame alſo do appear by the words of *Glanvil* or *Bracton:* and ſince whoſe times, the Law in Sundry Particulars is varyed and altered: But I will trace theſe impertinent Parcels, more particularly.

Firſt, *pag.* 34. of his *Defence* of *Amicia*, he tells us, that the words *cum aliquâ aliâ quâlibet muliere* (which are the words of *Glanvil*) muſt be only underſtood of ſuch a woman as is capable of a Gift in a *Frank*-marriage: which a woman that is a Baſtard, or not of the blood, *&c.* is not: For in theſe kind of Gifts, as Mr. *Bracton* ſaith, *lib.* 2. *ca.* 11, the land ſo given is *liberum Tenementum uxoris, & non viri, cum non habeat niſi Cuſtodiam cum uxore.*

Is not this a worſhipfull reaſon to inſinuate here, that *cum aliquâ aliâ quâlibet muliere*, in *Glanvill* muſt be underſtood of any woman of the blood, becauſe *Bracton* ſaith, that land given with

with a woman in *Frank*-marriage is the Free hold of the wife, and not of the Husband, ſince he hath nothing but the Cuſtody of ſuch land with his wife? So it would be, although the wife were not of the blood of the Donor: *John of Oakes* his wife muſt needs be of the kinred of the Donor, for *John of Oakes* is a very honeſt man.

Secondly: *pag.* 34 of his *Defence* of *Amicia* alſo, Sir *Thomas* conceives that *Glanvil* hath immediately contradicted himſelf, unleſs *cum aliquâ aliâ quâlibet muliere*, by him is underſtood for any Woman of the Blood of the Donour: why ſo? becauſe in the ſame Chapter, *Scilicet lib. 7. ca. 1.* and the next word, he tells us, that, none can give land to another *in remunerationem Servitij ſui* to hold good after the death of the Donour, unleſs there be *Seiſin* given in the life-time of the Donour: which is untrue, if a man having a mind ſo to reward his Servants, can give lands with his Woman-Servant to a ſtranger, or with his Woman-Servant to his Man-Servant in Free-marriage.

Is not here also a great connexion of Reason, that *Glanvill* hath contradicted himself? because he said before, any man may give land with any woman whomsoever in *Frank*-marriage; and now saith that, A man cannot give land to another *in remunerationem Servitij sui* to hold good after the death of the Donour without *Seisin* given in the life-time of the Donour: but let us see the words *lib. 7. ca. 1. Quilibet etiam, cuicunque voluerit, potest dare quandam partem sui liberi tenementi, in remunerationem Servitii sui, vel loco religioso in Elemosynam, ita quod Si donationem illam Seisina fuerit Sequnta, Perpetuò remanebit illi (cui donata fuerit terra illa) & haeredibus suis, si jure hareditario fuerit eis concessa. Si verò Donationem talem nulla Sequnta fuerit Seisina, nihil Post mortem Donatoris ex tali donatione contra voluntatem haeredis efficaciter peti potest, Quia id intelligitur Secundum consuetam regni interpretationem potius esse nuda Promissio, quam aliqua vera promissio vel Donatio:* So that here *Glanvill* speaks of a grant *in remunera-*

munerationem Servitii, and before of a grant in Free-marriage: which are two ſeveral kinds of Grants: To a Deed *in remunerationem Servitii* there muſt be Seiſin, if the land be granted away hereditarily; but without Seiſin it cannot hold good after the Donour's death: But where is the contradiction? if he had been verſed in the Rules of Logick, it would have told him that contradictories cannot both ſtand together at once and in the ſame reſpect, *Simul & Semel*, as the School ſpeaks: *Et, contradictoriorum una pars ex neceſſitate eſt vera*; both parts cannot poſſibly be true: but here both parts are true: A man may give lands with any woman in Free-marriage, and a man could not grant lands *in remunerationem Servitii* to hold good after the death of the Donour without livery of Seiſin: But Sir *Thomas* ſaith this laſt is untrue, if a man may give lands to his Servant in Free-marriage. I ſay, a man might both give lands to his Servant in Free-marriage, and by another Deed give

other lands to the ſame Servant in reward of his Service, and both are good by the Authority of *Glanvil*; howbeit, there muſt be *Seiſin* upon the Deed *in remunerationem ſervitii*; otherwiſe it would not hold good after the Death of the Donour, as *Glanvil* there ſaith. See the impertinency of what Sir *Thomas* here brings-in, for a proof, that *cum aliquâ aliâ quâlibet muliere*, is, underſtood by *Glanvil* himſelf for any woman of the Donours blood: Becauſe a man could not grant lands to his Servant *in remunerationem ſervitii ſui* to hold good after the Donour's death without livery of Seiſin made; *ergo*, Glanvil underſtands *cum aliquâ aliâ quâlibet muliere* with a woman only of the Donour's blood: and if a man could grant lands in Free-marriage with a Servant-Woman, then he might reward his Servant after his Death; which he could not doe by his Deed *in remunerationem ſervitii ſui* without Seiſin: what, then *John of Oakes* cannot Sell away his land for ever, becauſe he is but tenant for life: *ergo*, *John of Oakes* cannot

make

make a Leaſe for three lifes whereunto by Deed he is empowred:

And then what is there further added *pag.* 35. by Sir *Thomas*, out of *Cook* upon *Littleton*, that If lands be given in *Frank marriage* according to Law, there needs no *Seiſin*: but where they are given contrary to the Law, *viz.* not to one of the Donor's blood, *Seiſin* doth only make it an Eſtate for life: But this of *Cook* is to be underſtood of the Law in later ages, and not of the Law in *Glanvil's* time: for we find nothing at all in *Glanvil* or *Bracton*, tying it up to the Donour's blood only.

Thirdly, *Pag.* 36 of his *Defence* of *Amicia*, he ſaith out of *Cook* upon *Littleton fol.* 21. *b.* that, if the King give land with a woman of his Kindred to a man in Free-marriage, and the woman dye without iſſue; the man in the Kings Caſe ſhall not hold it for his life, becauſe the woman was the Cauſe of the gift: but it is otherwiſe in the Caſe of a Common Perſon:

This is as impertinent, as any of

the reſt: for we are now about the Perſons to whom Gifts in *Frank*-marriage might in thoſe elder ages be given, and not about the reverſion of lands ſo given.

Fourthly, in the ſame *Page* 36, he ſaith out of *Fitz. Herberts* Grand Abridgment 9 *Hen.* 3. *Dower* 202. *oue une feme*---my Lord *Cooke* makes no difference between thoſe words, and theſe [with a Woman of his kindred]: and by the ſame reaſon *Glanvil's* words *cum aliquâ aliâ quâlibet muliere*, are to be underſtood [with any Woman of his kindred onely]: and *pa*: 37, he quotes the Author of the Book called *The Law's Reſolutions* of Womens rights, Printed 1632, who ſaith, that in old time, Gifts of *Frank*-marriage were more frequent than at this day: But now as then, if a man Freely without any money, or other Conſideration, ſave only love or natural affection, give lands to another man with a woman, which is Daughter, Siſter, or Coſin to the Donour in *Frank*-marriage, the words [*Frank*-marriage] make an eſtate of inheritance, &c. Ob-

Obſerve, The Lord *Cook* expounds the words *oue une feme* to be a woman of the Donour's Kindred only: and the other Author, living 1632, ſaith, In old time gifts in *Frank*-marriage were more frequent then in our days: what of all this? Here is nothing to the point: doth either of theſe prove it to be law in the Age of *Glanvill*, that lands could not be given to any in *Frank* marriage but thoſe of the kindred only? doth not *Glanvill* himſelf ſay, that ſuch gifts may be made with any woman whomſoever, without any reſtraint at all? how can then the Lord *Cook*, or any other late writer, who only ſpeak of the Law as it was taken in later ages, reſtrain *Glanvills* own words? None of them affirm it to be Law in *Glanvills* time: and, if they did, they ought to prove it; or elſe no man is bound to believe the Lord *Cook*, or any other in that caſe.

Fifthly, *Pag.* 38, 39. Sir *Thomas* endeavours to give another reaſon why the words of *Glanvill* [*cum aliquâ aliâ quâlibet muliere*] muſt be underſtood

derſtood of a Woman of the blood of the Donour only: becauſe the Author of the old Treatiſe, commonly called *Fleta, lib. 3. ca. 11 de Donationibus in Maritagiis*, doth imply that theſe kind of Gifts muſt be made to them of the kinred: his very words are theſe—*Eſt autem quoddam maritagium, liberum ab omni Servitio, Solutum Donatori, vel ejus hæredibus uſquè ad tertium hæredem, vel uſquè ad quartum gradum, faciendum: & debent gradus ſic computari, ut Donatorius, primum faciat gradum; hæres ejus, ſecundum gradum; hæres hæredis, tertium; & hæres ſecundi hæredis quartum, qui quidem tenebitur ad Servitium ut ad homagium; priùs autem minime, ne Donator vel ejus hæredes per homagii acceptionem à reverſione repellantur: ſed, in quarto gradu, pro eo quòd tunc vehementer præſumitur, quod terra non eſt, pro defectu hæredum Donatoriorum, reverſura, quia & ſi Propinquos hæredes non habeat, vel, cum habeat & defecerint, ad Donatorum vel ejus hæredes (qui homagium caperint) non erit terra reverſura, dum tamen aliquis remotus de conſan-*

ſanguinitate appareat qui jus in hæreditatem poterit vindicare; alioquin evaneſcit homagium, & revertetur: Et cum de Sanguine homagium factum fuerit, ex tunc obligatur homo ad Servitium: quiâ ſervitium ſemper ſequitur homagium, &c.

He that can find out of this, any thing of Reaſon pertinent to the Point, let him; I am ſure I cannot: In all theſe words of *Fleta*, here is nothing at all touching Kinred or conſanguinity, but what relates to the blood of the Donee. He ſaith indeed, that although the Donee in Frank-marriage hath no near heirs; or if he hath, and thoſe heirs fail, the land ſhall not revert to the Donour, or his heirs, who ſhall take the homage, whiles any, remote in conſanguinity, appears who can challenge the right of the inheritance: otherwiſe the homage vaniſheth, and the land ſhall revert: and when homage ſhall be made by one of the blood, from that time the Perſon is obliged to the Service: for the Service always follows the homage, *&c.* The Point is here, that any man may

may give with any woman whomsoever land in Free-marriage, as *Glanvill* saith: and here he brings in an impertinent proof out of *Fleta*, that Lands once so given cannot revert to the Donour, whiles there is any of the blood of the Donee to inherit: Is not here a pretty reason why [*aliqua alia mulier* in *Glanvill*,] must be tyed up to one of the Kinred: where he speaks of a gift in Free-marriage, and *Fleta*, of the reversion of such land after a Gift made in Free-marriage: for every body knows, that lands must needs revert, if there be no heirs of the blood to inherit.

Sixthly, *ibidem pag.* 39, See here another impertinent proof by Sir *Thomas* out of *Bracton*, *lib.* 2. *ca.* 7. *par.* 3.--- *Et Sciendum quod terra datur aliquando antè sponsalia & propter nuptias, à patre mulieris, vel alio Parente, ipsi marito cum muliere aliquâ, vel utriqueSimul, Scilicet tali viro & uxori suæ (quod idem est) & eorum hæredibus, vel alicui mulieri ad se maritandam,* &c. Which in Sir *Thomas* his apprehension is as much as to say, that this kind of Gift can only be made by the Father,

ther, Mother, or ſome other Kinſman: for the word *Parent* in latine and French hath oftentimes that Signification: and of this opinion is my Lord *Cook* upon *Littleton fol.* 21. *b.* where he ſaith that, one of thoſe things incident to *Frank*-marriage is, that the woman that is the cauſe of the Gift, be of the blood of the Donour: and for this he citeth in the margent (among other Proofs) *Bracton, lib.* 2. *ca.* 7. and *Glanvill lib.* 7. *cap.* 1.

Let any ſober man be judge, whether here be a word to prove what Sir *Thomas* alledgeth it for: but rather the contrary: for a Father, or other Parent, may give lands with any woman in expreſs termes: not to any of his kindred only, no ſuch word at all: but it may be made to any woman alone *ad ſe maritandam:* and though Sir *Tho.* ſaith, that, in his apprehenſion, it is as much as to ſay, that this kind of Gift can only be made by the Father, Mother, or ſome other Kinſman; yet I believe it cannot be ſo in the apprehenſion of any other by the words of this Authority here produced by him: It is only

only a wild phanſy, nothing of Reaſon can be drawn out of any thing in *Bracton* to ſupport it:

For the Opinion of the Lord *Cook*, I have ſhewed over and over again, that he ſpeaks only how the Law is taken now, and in the later ages; and is not underſtood by him of the Law in the more ancient ages of *Glanvil* and *Bracton*: For then, the Law in this point appears to be contrary, even by *Glanvill* and *Bracton* both, as I have before clearly proved:

And for the Lord *Cook's* citing of *Bracton*, and *Glanvill*, in the Margent, as Authority for what he there ſaith; if he maketh a falſe cotation, or ſuch as is not to the Point, neither I, nor any man elſe are bound to believe the Lord *Cook*, more then any other.

And thus I have briefly run through all the improper and impertinent Law-Caſes of Sir *Thomas Manwaring*, which he called in to little Purpoſe, but to amuſe the Reader: which being all drawn out of his book lately publiſhed,

ſhed, and ſet apart from the reſt, there will remain behind but a weak and poor *Defence of* a *Amicia*, either from Hiſtory, Records, or Reaſon, the moſt proper Judges in this Caſe: & it is very obſervable, that he rarely gives an Anſwer to any material Point throughout all his books without a ſcrap of Law in the Tayle: For ever and anon he leaps into Law (as it were over hedg and ditch) as a ſhelter; but it cannot help him: and runneth from one thing to another, not keeping cloſe to the Point, and catching at every ſmall impertinent thing, as the ingenious Reader may eaſily perceive.

And whereas in his *Defence of Amicia, pag.* 25. (as he himſelf hath told me) three Judges have given their Opinions that *Amicia* was legitimate: and alſo, *pag.* 67, tells us that beſides thoſe Judges (of whom I had heard) who had formerly ſeen his Deeds, and amongſt others, that worthy and Judicious Perſon, *William Dugdale* Eſq; our *Norroy*, King at Arms, is of the ſame Judgment, as will appear in his Hiſtorical Diſ-

courſe

course of the *Baronage of England* (which will be shortly ready for the Presse) in which, from the Authorities and Reasons there briefly cited, he concludes *Bertred* was a Second wife, and that *Amicia* was a lawfull daughter of Earl *Hugh*, by a former wife, though it cannot be known who that wife was---*&c.*

I say, it may be, that upon a slight enquiry, not searching into the Reasons which may be alledged *Pro* and *Con*, and especially in putting the Question, whether lands can pass with a Bastard-daughter legally *in libero maritagio?* every Lawyer will now tell us, that they cannot: But I would be glad that either he, or any other that hath asked their Opinions for him, will show me, or produce in Publique, The Opinion of any one Judge of *England* under their own hand to the main point of Law, *viz.* Whether lands did not, nor could not passe, in the Age of *Glanvill* (when the Deed to *Amicia* was made) with Bastard-daughters, *in libero maritagio?* I say, I would fain

fain ſee any ſuch Opinion, that lands could not be ſo given in the Age of *Glanvill*, *in libero maritagio*, atteſted under the hand of any one learned Judge or Lawyer:

And for what he there ſaith of Mr. *Dugdale's* Opinion, intended ſhortly for the Preſſe, I wiſh Mr. *Dugdale* would ſhow me any ſuch opinion of any Judge under his hand to the Queſtion aboveſaid: otherwiſe it is nothing to the Purpoſe: and whereas he alledgeth the Opinion of Mr. *Dugdale*, that *Amicia* was a daughter of a former wife; if he doth not clearly prove by good Authority and Reaſon, that the Earl had a former wife (which I utterly deny) *Amicia* muſt certainly be a Baſtard; nay he muſt prove alſo in ſtrictneſs, that *Amicia* was daughter of that former wife: All which muſt be ſubmitted to Judicious Readers: *Hic labor, hoc opus eſt.*

Mobberley
1ſt. Maij, 1674.

FINIS.